

July 29, 2008



**TRANSCRIPT
July 29, 2008**

MONTGOMERY COUNTY COUNCIL

PRESENT

Councilmember Michael Knapp, President
Councilmember Roger Berliner
Councilmember Valerie Ervin
Councilmember George Leventhal
Councilmember Duchy Trachtenberg

Councilmember Phil Andrews, Vice President
Councilmember Marc Elrich
Councilmember Nancy Floreen
Councilmember Praisner



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1 President Knapp,

2 Good morning everyone. Welcome to the County Council. This is our final session
3 before the Council goes into recess for the month of August. We don't have an
4 invocation this morning, but I would ask you to all please join me in a moment of silence
5 to prepare us for the day. Thank you very much. Ms. Lauer, should we go to our general
6 business and then come back to our distinguished guest.

7
8 Linda Lauer,

9 Okay. Consent Calendar, you'll notice you have a revised CC, which is confirmation of
10 the Executive appointments to the Sustainability Working Group. There's been a revised
11 appointment list there. At 11:30 this morning, or whenever you conclude our morning
12 session, there is a proposed closed session planned, and the topic is the Barwood
13 litigation. And that would be closing at for potential litigation. And then the petitions we
14 received this week were from the Citizens of Glenburg Village, Over Brook and East
15 Bethesda opposing proposed changes to Zoning Text Amendment 08-11; and one from
16 Residents Supporting Suburban Hospital's Campus Enhancement Project. Also, later
17 this morning in the District Council Session, agenda item number 11 has been deferred;
18 that is Action on Zoning Text Amendment 08-12, Landscape Contractors in the General
19 Commercial C-2 Zone. We'll reschedule that at a later date. Thank you.

20
21 President Knapp,

22 Thank you very much. I see we have been joined by the County Executive, and so we
23 will now turn to our joint proclamation in recognition of Mayor Sidney Katz of
24 Gaithersburg as the new president of the Maryland Municipal League. And I would ask
25 Council President Councilmember Andrews to join us as well. It is always exciting and
26 wonderful when Montgomery County's residents are seen to excel and rise to lead
27 statewide organizations. The County Executive was the previous Head of Democratic
28 Party Chair, understands that role and how important it is. And Mayor Katz has now
29 begun to assume his role as the head of the Maryland Municipal League, heading up all
30 of our municipal jurisdictions throughout the state for the next year. Which means I
31 guess we get to have the Capitol for a day in Montgomery County.

32
33 Mayor Sidney Katz,

34 We do. That is correct.

35
36 President Knapp,

37 Which is very exciting.

38
39 County Executive Leggett,

40 It will be in Gaithersburg?

41
42 Mayor Sidney Katz,

43 I just happen to be in Gaithersburg, but Kensington is here today as well.



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1 President Knapp,

2 So we have a proclamation presented jointly on behalf of the County Executive, myself
3 and the Council. But I just want to see if people have a few remarks. I will start by just
4 saying in the time I've been in office there have been few elected officials I have run into
5 who always manage to find the positive or the glass being half full or the silver lining or
6 whatever it is, and Mayor Katz is the one person who no matter what the issue is, no
7 matter group he's in front of, can always manage to find the one positive thing to say
8 here's where we're going, here's why it is exciting, here's why it is important. And that is
9 truly a gift, especially in an elected-official's life. And so I commend him for that and the
10 leadership he provides in showing the rest of us how we should be doing that all the
11 time. I would turn to the County Executive for any remarks he might have, and then
12 Council Vice President Andrews.

13
14 County Executive Leggett,

15 I just want to echo the Council President's words as well. I was extremely proud most
16 recently when I had the opportunity to go to the convention in Ocean City and see the
17 outpouring of respect and admiration for Sidney Katz. He truly has made Montgomery
18 County proud, and certainly the city of Gaithersburg. And I was delighted to be a part of
19 the program and delighted to be there when he was elected. And I say again that this is
20 really a terrific feat for Montgomery County, and certainly one for yourself and the city of
21 Gaithersburg. And they are in tremendous capable hands for the next year. So
22 congratulations.

23
24 Mayor Sidney Katz,

25 Thank you very much.

26
27 Vice President Andrews,

28 Yeah, I would second and third the remarks of my colleagues. When you think of
29 Gaithersburg city you think of Sid Katz. Sid is a lifelong resident of Gaithersburg, went
30 to Gaithersburg High School -- proud graduate, served on the City Council for about 20
31 years or so.

32
33 Mayor Sidney Katz,

34 Twenty years, yeah, a mere 20 years.

35
36 Vice President Andrews,

37 Twenty years and now its Mayor. So he's dedicated much of his life to public service,
38 and we're all better for it. Congratulations.

39
40 Mayor Sidney Katz,

41 Thank you very much.

42
43 President Knapp,



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1 And we have a proclamation -- we can all share it. Whereas, Sidney Katz is a respected
2 businessman and member of the Gaithersburg community; and, Whereas -- .

3
4 County Executive Leggett,
5 For more than three decades he has served with distinction as an elected official, first
6 as a member of the Gaithersburg City Council, then for the past 10 years as Mayor.

7
8 Vice President Andrews,
9 And, Whereas, his experience, vision of municipal service and dedication to
10 strengthening the role of municipal government led to his induction as the Maryland
11 Municipal League Hall of Fame in 1998; and, Whereas -- .

12
13 President Knapp,
14 In recognition of Sidney Katz's years of outstanding service and contributions to the
15 residents of Gaithersburg, and his desire to help empower and enrich the experiences
16 of those who serve on what he calls the frontlines of democracy; he's been elected as
17 the President of the Maryland Municipal League for 2008-2009. Now therefore do we,
18 Isiah Leggett -- .

19
20 County Executive Leggett,
21 Isiah Leggett as County Executive, Michael J. Knapp as Council President, hereby
22 commend and congratulate -- .

23
24 Vice President Andrews,
25 Oh, go ahead.

26
27 County Executive Leggett,
28 Gaithersburg Mayor Sidney Katz, whose continued commitment to helping foster strong
29 municipal government in the state of Maryland through his Presidency of the Maryland
30 Municipal League. Congratulations. It is signed by myself and Michael J. Knapp as
31 Council President.

32
33 Mayor Sidney Katz,
34 I just wanted to say thank you very, very much to the County. And, you know, it's
35 moments like this that you -- that you realize that friends really are an important part of
36 what you do. And to be amongst all these friends is really a nice thing for all of us. And I
37 just wanted to say how proud I am to be the President of the greatest Municipal League
38 in the world. So thank you very much.

39
40 President Knapp,
41 Thank the County Executive again for joining us this morning. We now turn to the
42 Consent Calendar. Is there is a motion for the Consent Calendar?

43
44 Councilmember Leventhal,



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1 [Inaudible].

2
3 President Knapp,
4 Thank you, Mr. Leventhal. Is there a second?

5
6 Councilmember Trachtenberg,
7 Second.

8
9 President Knapp,
10 Seconded by Councilmember Trachtenberg. Is there any discussion on the Consent
11 Calendar? I would just note before that we are -- we have two appointments for
12 confirmation for Special Projects Manager in the Office of -- Chief Administrative Office -
13 - Chief Administrative Officer, and confirmation of Deputy Director of Department of
14 Transportation. And I believe they were here or they were both going to be here -- Mr.
15 Mohammad Siddique and Al Roshdieh. There's Mohammad, welcome. And I just -- any
16 other comments? Councilmember Berliner.

17
18 Councilmember Berliner,
19 I just want to note that on Item CC on page four, that we are launching the Sustainability
20 Working Group, which is a key component of our moving forward with our climate action
21 plan and other issues that are important to this Council and to the County Executive.
22 And I want to commend the County Executive for the quality of appointees to that -- with
23 the exception of the Councilmember Berliner [inaudible].

24
25 President Knapp,
26 We can all overlook some things.

27
28 Councilmember Berliner,
29 But some very good folks on this, and look forward to working with them and getting
30 their report.

31
32 President Knapp,
33 Very good. And I would commend Councilmember Ervin for her efforts in the
34 appointments of the Universal Preschool Implementation Work Group. We are
35 [inaudible] suspending the rules for action on that this morning so that workgroup can
36 actually begin its work in August. So we didn't want them to delay and wait until
37 September, as would have typically been the case. So we are moving that forward
38 today. I see no further comments on the Consent Calendar. So all in support of the
39 Consent Calendar please indicate by raising your hand. That is unanimous among
40 those present. Thank you very much. We now turn to introduction on Legislative
41 Session for Day #25. We have no Legislative Journal to approve. We do have
42 introduction of Bills -- Expedited Bill -- sure.

43
44 Vice President Andrews,



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1 I see that we have representatives from our Office of Legislative Oversight still in the
2 room, and I just wanted to say that as always they've done good work and the
3 committees -- the Education, Transportation and Environment committees adopted a
4 number of items for action urging improved recycling in Montgomery County Public
5 Schools. So thanks for the good work.

6
7 President Knapp,

8 Well done. We now turn to Introduction of Bills. Expedited Bill 28-08, Spending
9 Affordability, Operating Budget, Revisions, sponsored by the Management and Fiscal
10 Policy Committee. The Chair of that committee, Councilmember Trachtenberg, has
11 some remarks.

12
13 Councilmember Trachtenberg,

14 Very brief remarks; thank you, President Knapp. This bill that we are advancing for
15 discussion within the full Council is definitely the fruit of many, many conversations that
16 have taken place within the MFP Committee. I, as you know, Chair the Committee, and
17 I've been fortunate to have input from five different Councilmembers over the course of
18 the last year and a half. So this is a reflection of all the energy and ideas that people
19 have brought to the conversation. And in a nutshell, this would revise the process by
20 allowing us to set one guideline in February. It would also add the trend of personal
21 income as a factor in the prioritization that are set by this body. So I look forward to the
22 dialogue that I know we'll start in September. There's a public hearing I believe on
23 September 9. I'm sure there will be additional conversations within the Committee. And I
24 want to thank Councilmember Praisner and Councilmember Ervin for working with me
25 over the course of the last few weeks so we could get this introduced today.

26
27 President Knapp,

28 Excellent. Thank you very much. And I would commend the Chair and the MFP
29 Committee both its current and former members, all of whom I know contributed to this
30 discussion. I think its -- the unanimity is certainly in the fact that we need to modify the
31 spending affordability process, and look forward to the discussion on this when we get
32 back in session in September. And so I thank you all for your efforts to get the bill for
33 introduction. Councilmember Berliner.

34
35 Councilmember Berliner,

36 I just want to commend the Chair of the Committee for this legislation. I think it is an
37 important initiative. I think we have spent a lot of time on debating issues that
38 fundamentally were meaningless, and this cleans the process up in a way that allows us
39 to conserve our energy for when it really matters. And I commend the Chair and the
40 good staff work that led to this, because I know that there have been years of work that
41 have gone into this. These recommendations have, in fact, been around for a while. And
42 so I appreciate the leadership of the committee Chair in making sure that we finally do
43 act on the good staff work that has been presented to us.



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1 Councilmember Trachtenberg,

2 And I want to actually underscore what Roger has shared about staff input, because I
3 know that Chuck Sherer went above and beyond in terms of the preparation that he put
4 into this, and the work that he provided to the committee over the course of the last year
5 and a half.

6
7 President Knapp,

8 Thank you very much. Public hearing is scheduled for September 9, at 1:30 p.m. We
9 now have introduction of Bill 29-08, Human Services, Montgomery Cares, Advisory
10 Board, sponsored by the Health and Human Services Committee. Councilmember
11 Leventhal, Chair of the HHS Committee, has a few comments on that.

12
13 Councilmember Leventhal,

14 I just want to thank the members of the Montgomery Cares Advisory Board. It's been in
15 operation for a couple of years now and has assisted the Council and the Executive
16 Branch in steering this important program and providing policy guidance. So we think it
17 ought to be renewed. But I -- the purpose of my remarks is just simply to acknowledge
18 the very good work of the citizen volunteers. We have a very high quality board.

19
20 President Knapp,

21 Thank you, Mr. Leventhal. Public hearing is scheduled for Bill 29-08 for September 9, at
22 1:30 p.m. as well. We now turn to our Call of Bills for Final Reading. Expedited Bill 22-
23 08, Retirement of Elected Officials; I turn to the Chair of the MFP Committee,
24 Councilmember Trachtenberg.

25
26 Councilmember Trachtenberg,

27 Okay, thank you, President Knapp. Expedited Bill 22-08 would allow an active member
28 of the County Retirement Plan who becomes an elected official to choose to continue to
29 participate in that plan instead of the Elected Officials Plan. The Bill also clarifies the
30 Disability Retirement provisions applicable to members of the Elected Officials Plan.
31 And it also repeals some obsolete provisions related to an elected official's eligibility to
32 participate in certain retirement plans. I know that Mr. Drummer has joined us, and I'm
33 going to ask him to actually address the two amendments that we worked within the
34 committee last week, which were changes, again, the fruits of some conversations
35 within the committee because we determined that Councilmember Ervin had some
36 personal not only interest, but you know, some questions about transition language that
37 was in the proposed legislation. So, Bob, if you could walk us through the two items
38 beyond what I summarized in my remarks.

39
40 Robert Drummer,

41 Thank you. The two amendments have to do with prospectively only; they don't affect
42 the transition clause. But prospectively they would permit an employee to have a break
43 in service before -- between the time they are a County employee and the time they get
44 elected and still be able to return to their old retirement plan under the same rules that



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1 govern employees who leave County service and come back to County service, which
2 for member of the ERS is 25 months. And they come back within 25 months, you have
3 to have been vested when you left and you have to have left your money in the
4 retirement plan and not taken it out. It also just a clarifying amendment that if somebody
5 -- an employee who runs for election and while they're conducting a campaign takes a
6 leave of absence on leave without pay that that would be considered -- they would also
7 be allowed to go back into the retirement plan, essentially leave the rules for someone
8 who gets elected to public office the same as somebody who leaves County service and
9 comes back.

10
11 President Knapp,
12 Say that one more time.

13
14 Robert Drummer,
15 Okay. The Bill, as introduced, required an employee who runs for public office to be an
16 active employee at the time they were elected.

17
18 President Knapp,
19 Okay.

20
21 Robert Drummer,
22 In other words, no break in service. And it was felt that -- first that it's not uncommon for
23 someone to conduct a campaign to leave employment while they're conducting a
24 campaign, take a break in service, and then get elected. And current employees who
25 leave are permitted to come back into the retirement plan they came from if they come
26 back within 25 months and leave their money in the retirement plan. So what this
27 amendment would do would give the same option to employees who come back instead
28 to County employment as an employee, come back as a public official -- elected official.
29 Just clarifying on the transition clause. The transition clause requires that an employee,
30 which -- requires an employee to have been an active member of the retirement -- an
31 active employee -- an active member of the retirement plan at the time they got -- they
32 were elected to office. There was some discussion about Councilmember Ervin and she
33 is not covered by this bill and it would not be -- it wouldn't affect her at all one way or the
34 other.

35
36 Councilmember Ervin,
37 The caveat for me was you have to stay an employee; you have to take a leave of
38 absence. You can't quit. You can't have that kind of a break in service. You can't quit
39 and then come back, and then have this apply to you. You can only -- it only applies if
40 you take a leave of absence, which is kind of difficult for people, like myself, who
41 worked over here on this side of the street to run for office. You cannot do that and still
42 remain employed. You actually have to leave. So these were the questions that came in
43 the MFP Committee.



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1 Councilmember Trachtenberg,
2 Yes, and I would underscore that the recommendation from the Committee was a
3 unanimous one as well.
4

5 President Knapp,
6 Very good. Further discussion on Bill 22-08? Seeing none, Madam Clerk if you would
7 call the roll.
8

9 Council Clerk,
10 Mr. Elrich.
11

12 Councilmember Elrich,
13 Yes.
14

15 Council Clerk,
16 Mr. Praisner.
17

18 Councilmember Praisner,
19 Yes.
20

21 Council Clerk,
22 Ms. Trachtenberg.
23

24 Councilmember Trachtenberg,
25 Yes.
26

27 Council Clerk,
28 Ms. Floreen.
29

30 Councilmember Floreen,
31 Yes.
32

33 Council Clerk,
34 Mr. Leventhal.
35

36 Councilmember Leventhal,
37 No.
38

39 Council Clerk,
40 Ms. Ervin.
41

42 Councilmember Ervin,
43 Yes.
44



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1 Council Clerk,
2 Mr. Berliner.

3
4 Councilmember Berliner,
5 Yes.

6
7 Council Clerk,
8 Mr. Andrews.

9
10 Vice President Andrews,
11 Yes.

12
13 Council Clerk,
14 Mr. Knapp.

15
16 President Knapp,
17 Yes. Bill 22-08 is approved 8-1. Thank you very much. Councilmember Trachtenberg.
18 We now turn to District Council Session, Introduction of Zoning Text Amendment 08-16,
19 Workforce Housing, Findings, sponsored by Councilmember Floreen. And we have
20 before us Action - Resolution to establish public hearing on September 16, at 1:30 p.m.
21 And let me also -- we can do this as one motion. We have introduction of Subdivision
22 Regulation Amendment 08-04, Workforce Housing, Findings, sponsored by
23 Councilmember Floreen. And I would ask that -- for a motion to approve each of those.

24
25 Councilmember Floreen,
26 So moved.

27
28 President Knapp,
29 Moved by Councilmember Floreen.

30
31 Councilmember Ervin,
32 Second.

33
34 President Knapp,
35 Seconded by Councilmember Ervin, to establish public hearing. All in support indicate
36 by raising your hand. Unanimous among those present. Councilmember Floreen.

37
38 Councilmember Floreen,
39 Thank you. Actually I just wanted to ask that my name added as -- in support of the
40 Consent Calendar.

41
42 President Knapp,



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1 Without objection. We now turn to Action for resolution to establish public hearing for
2 September 16, 2008, at 1:30 p.m. on the limited amendment to the Wheaton Sector
3 Plan. Is there is a motion?

4
5 Councilmember Ervin,
6 So moved.

7
8 President Knapp,
9 Second.

10
11 Councilmember Berliner,
12 Second.

13
14 President Knapp,
15 Seconded by Councilmember Berliner. All in -- is there is a discussion? Seeing none, all
16 in support indicate by raising your hand. That is unanimous among those present. We
17 now turn to action on Zoning Text Amendment 08-13, Transit Oriented Mixed Use,
18 General Commercial C-2 Zone. Mr. Zyontz.

19
20 Jeff Zyontz,
21 This is an amendment that would allow transit-oriented development if C-2 zoning is
22 located within 500 feet of a defined transit center. As introduced, the bill used the term
23 transit center and had some qualifications about the number of busses that had to be
24 there, the number of passengers, the fact that it had to be in a Capital Improvements
25 Program. The Committee had some discussions that would limit that definition of transit
26 center to a bus transit center. It said that it had to be 150 boardings, which is a more
27 qualifying term. And it had to be an offsite facility. The effect of that would be to
28 eliminate White Oak as one of the possible transit centers. It makes it essentially limited
29 at this time to an area around Montgomery Mall and an area around Takoma/Langley.
30 The Committee also recommended using the standards that are available around the
31 Central Business District, which had a lower height limit than the standards that are
32 allowed for a metro station policy area. So essentially it's either 70 or 75 feet, and I have
33 to remember that -- 75 feet as a limit as opposed to the 143 feet would have been the
34 height limit otherwise. So with those amendments the Committee recommended
35 approval of the Zoning Text Amendment.

36
37 President Knapp,
38 Councilmember Berliner.

39
40 Councilmember Berliner,
41 Thank you Council President.

42
43 President Knapp,
44 He was a de facto committee member that day and we appreciate his joining us.



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Councilmember Berliner,

I was -- it was a pleasure to join you. And I do not make a habit of introducing ZTAs, so let me just share with my colleagues why in this instance I thought it was appropriate, and why I hope my colleagues will support the committee's recommendation with respect to this. We have a situation where next to Montgomery Mall was a Ford automobile dealership -- Ourisman Ford Dealership. That is no longer viable. It has gone bankrupt. That piece of property, because it is zoned C-2, basically has one option that could become a big box store. Well that didn't seem to be particularly desirable in that location. There were other uses that were more desirable. So after a number of meetings with people who said we could do mixed-use here. We could have housing next to a place where there are a lot of buses. This would be a good thing as opposed to a box store. So I met with the developer who thought this would be a positive contribution to our community, and I said alright we'll go meet with the community and see what the community has to say. And they did say to their credit and after many months worked out an agreement with all of the neighboring associations that said this in fact would be a positive contribution to the life of our community. We would like to see X, Y and Z, and the developer gave them X, Y and Z. So this recommendation comes not only with the support of a developer, but with the support of all the surrounding neighborhood. And with the only objection -- the official objection from Park and Planning being, you know, we hate doing these kinds of ZTAs on a piecemeal basis; we'd rather wait for a comprehensive Zoning Ordinance rewrite. Well all of us would prefer for that to be the case. But if we wait for that Zoning Ordinance rewrite, this bankrupt piece of property is going to turn into a box store, because it can't wait to get economic value out of that property. So I was heartened actually by the fact that Planning Board actually thought that this was a good idea. They would prefer for it to wait. They actually like the result of it. They're not keen on the process. But I believe that the public aspect of the process was, for the most part, satisfied by the neighborhood associations' signoff on this deal, and so I really do think it is a net-plus for our community, and would urge my colleagues to support it.

President Knapp,

Thank you very much. Mr. Zyontz.

Jeff Zyontz,

Just to add that yes this has an origin on a particular site as general applicability in the County. It might be -- there might be additional centers in the future that use this ZTA.

President Knapp,

Thank you very much. Further discussion on Zoning Text Amendment 08-13? Seeing none, Madam Clerk, if you would call the roll.

Council Clerk,

Mr. Elrich.



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1
2 Councilmember Elrich,
3 Yes.
4
5 Council Clerk,
6 Mr. Praisner.
7
8 Councilmember Praisner,
9 Yes.
10
11 Council Clerk,
12 Ms. Trachtenberg.
13
14 Councilmember Trachtenberg,
15 Yes.
16
17 Council Clerk,
18 Ms. Floreen.
19
20 Councilmember Floreen,
21 Yes.
22
23 Council Clerk,
24 Mr. Leventhal.
25
26 Councilmember Leventhal,
27 Yes.
28
29 Council Clerk,
30 Ms. Ervin.
31
32 Councilmember Ervin,
33 Yes.
34
35 Council Clerk,
36 Mr. Berliner.
37
38 Councilmember Berliner,
39 Yes.
40
41 Council Clerk,
42 Mr. Andrews.
43
44 Vice President Andrews,



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1 Yes.

2
3 Council Clerk,
4 Mr. Knapp.

5
6 President Knapp,

7 Yes. So ZTA 08-13 passes unanimously. Thank you very much. We are now deferring
8 action on item 11, and moving to action on Zoning Text Amendment 08-08, Fenton
9 Street Overlay Zone, Workforce Housing Heights, and I'll turn to Mr. Zyontz in just a
10 moment. But I wanted to thank my colleagues on the Committee, and those who live in
11 the Silver Spring area for working very closely to come up with what I think is a very
12 good solution -- Councilmember Ervin and Councilmember Elrich -- to move this issue
13 forward. We had a couple of ZTAs that had been introduced that had some competing
14 activities. As a result of much hard work on the part of Councilmembers, what is before
15 the Council represents, I think, a good compromise that gets -- that allows the Fenton
16 Village Overlay Zone to move forward in the appropriate direction, if you will. There is
17 an addendum that Mr. Zyontz provided to us overnight, or first thing this morning, which
18 shows the modifications to the various ZTAs. I will run through them briefly. First, this
19 allows a maximum height of 90 feet along Georgia Avenue; allows 110-foot building
20 height near Georgia Avenue to accommodate workforce housing; required building
21 heights to taper down at the Planning Board's discretion from the highest buildings on
22 Georgia Avenue to a maximum of 60 feet; heights allowed along Fenton Street; east of
23 Fenton Street allowed mixed-use option method of development projects that include
24 both residential and hotel uses with a maximum building height of 60 feet; allows
25 additional building height only if at least 33% of the floor area of a project will be for
26 housing. A grandfather project plans and site plans approved for the ZTA's effective
27 date is August 18, 2008. And replaces street names in the overlay zone with generic
28 descriptions that reflect the rationale for the different building heights. And there is a code
29 there so you can follow along. We did believe that this allowed a modest amount of
30 flexibility to accommodate workforce housing. You will note on your agenda for today
31 that there is also a ZTA 08-10 which was scheduled to be addressed. Mr. Zyontz in
32 working with the Committee has rolled that into what we're voting -- 08-08 was rolled
33 into this, so we will be doing one, one vote.

34
35 Mr. Zyontz,

36 Right. They were -- both of the ZTAs were advertised as general amendments to the
37 Fenton Street Overlay Zone, so we don't have an issuance of notice. And the other
38 thing I said for those following along who might have an agenda packet from Friday, this
39 in all its major aspects is the same as alternative 2 that was in the Council's packet.

40
41 President Knapp,
42 Very good. Councilmember Ervin.

43
44 Councilmember Ervin,



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1 Thank you. Just wanted to make clear that ZTA 08-08 was brought over by the County
2 Executive, just so folks know that. And 08-10, Councilmember Elrich and myself
3 cosponsored -- just so that everybody's clear how -- and the way we got to where we
4 are today I want really commend my colleague, Councilmember Elrich, for working very
5 closely with my staff and me, and with members of the community that surround Fenton
6 Village. We both really were on the same page from the very beginning in terms of what
7 we want to see for the Village. And so the fact that we're going to move forward,
8 hopefully in the future, on a sector plan for Fenton Village is really incredibly important
9 for that community. And so I hope that we continue this partnership that we have. We've
10 had some really good open lines of communication, and I want to thank the Council
11 President for also playing a very significant role in getting us to the place we are today.

12
13 President Knapp,

14 Thank you. Councilmember Elrich.

15
16 Councilmember Elrich,

17 I would reiterate what Valerie said. I also want to add that I thought the developer's
18 willingness to engage the community again was helpful to be able to have some
19 discussions back and forth, so that we were able to get a sense of what the interests
20 were beyond what the driving force for the economic development projects were, but
21 how does this interface with the community around it. I want to say also that the great
22 frustration -- I'm happy to do this, but I feel the same thing about the ZTA that I voted
23 that Roger brought up that it really points up the problem of getting Planning Board
24 advice not to do something because we can't go through I think all of us agree would be
25 a better process. But not having any ability to get the other process to work. I mean
26 we're sitting here looking, we've got one -- we've got money in the budget for one sector
27 plan -- a minor sector plan amendment. Either one of these could have eaten up that
28 money. And there are probably four more of these out there. And so we're in a bind
29 where if we don't make some decisions to let the Planning Board do some more, what I
30 think are appropriate sector plans, small sector plans, we're going to continue to
31 bombarded by requests for ZTAs. And in this case it seems that the outcome of the
32 ZTAs are pretty much what the outcome of what you would have thought a sector plan
33 amendment would have been. So I don't feel that we're doing something that's a
34 different direction in which we would have wanted to go to. Not all ZTAs fit that
35 description. And so I'm comfortable with this, but I really think we've got to figure out
36 and get handle on how do we give them the capacity to do the mini sector plans so we
37 answer the big questions. And both the Planning Board and the Council can make
38 decisions looking at a big picture that's been resolved rather than trying to sort out the
39 merits of every single little project and trying for us to decide whether this is going to fit
40 with where the sector plans would go, should they get a chance to actually do the sector
41 plans. So I'm really glad we were able to resolve this. I thank Valerie for working with
42 me on this. I thought -- I think this really -- nobody wanted to see a hole left in Silver
43 Spring. And Fenton Village over the years has become basically a hole and it needs to
44 be filled. And I think hopefully this will generate the kind of projects we want to see.



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1
2 President Knapp,
3 Thank you. Councilmember Floreen.

4
5 Councilmember Floreen,
6 Thank you. Well I just wanted to comment based on Mr. Elrich's observations. Ms.
7 Ervin's points and Mr. Berliner's comments as well that with the presentation that we
8 had yesterday from the Planning Board on their proposal to rewrite the Zoning
9 Ordinance we may indeed find ourselves in a more nimble situation that will allow us to
10 spend our time on the right things; allow them to spend staff time on the appropriate
11 community engagement initiatives; and move this along more rapidly. And so I think we
12 agree on all these points, and I just wanted to let the folks know who weren't able to
13 attend our session, I think it's very promising that we may be able to dig ourselves out of
14 this hole where we spend way more time in some of the weeds than we really need to
15 and doing other people's work for them in order to resolve problems we all agree need
16 to be resolved. So I commend all the players and all those who did a great job in
17 bringing us to resolution. There is some hope that we'll be able to reorient this system
18 within the next couple of years.

19
20 President Knapp,
21 What a good note for a final [inaudible] before recess.

22
23 Councilmember Floreen,
24 There you go. Hope.

25
26 President Knapp,
27 There's hope. Great isn't a -- isn't that a theme for something we'll be doing in later
28 August? I see no additional comments. We have before us Zoning Text Amendment 08-
29 08, Madam Clerk, if you would call the roll.

30
31 Council Clerk,
32 Mr. Elrich.

33
34 Councilmember Elrich,
35 Yes.

36
37 Council Clerk,
38 Mr. Praisner.

39
40 Councilmember Praisner,
41 Yes.

42
43 Council Clerk,
44 Ms. Trachtenberg.



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1
2 Councilmember Trachtenberg,
3 Yes.

4
5 Council Clerk,
6 Ms. Floreen.

7
8 Councilmember Floreen,
9 Yes.

10
11 Council Clerk,
12 Mr. Leventhal.

13
14 Councilmember Leventhal,
15 Yes.

16
17 Council Clerk,
18 Ms. Ervin.

19
20 Councilmember Ervin,
21 Yes.

22
23 Council Clerk,
24 Mr. Berliner.

25
26 Councilmember Berliner,
27 Yes.

28
29 Council Clerk,
30 Mr. Andrews.

31
32 Vice President Andrews,
33 Yes.

34
35 Council Clerk,
36 Mr. Knapp.

37
38 President Knapp,
39 Yes. 08-08 passes unanimously. Thank you very much. We now have scheduled before
40 us a closed session. I'll ask for a motion.

41
42 Vice President Andrews,
43 Sure, I'll move that the Council move into closed session for the purpose of consulting
44 with counsel to obtain legal advice regarding pending or potential litigation pursuant to



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1 Council President Knapp,

2 All right. Good afternoon, ladies and gentlemen. This is a public hearing on an
3 Amendment to the Comprehensive Solid Waste Collection Subdistricts. Yes. Persons
4 wishing to submit additional material for the Council's consideration should do so before
5 the close of business on September 3, 2008. A Transportation Infrastructure Energy
6 and Environment Committee worksession is tentatively scheduled for September 8,
7 2008 at 9:30 a.m. Please call 240-777-7900 for information. Before beginning your
8 presentation please state your name clearly for the record. There are no speakers for
9 this hearing at this time. Five of us, well maybe if I start talking. Good afternoon ladies
10 and gentlemen. This is a public hearing on a Special appropriation to the County
11 Government's FY09 Operating Budget, Department of General Services, Office of
12 Procurement - \$100,000 for Central Vendor Registration Portal. Action is scheduled at
13 the conclusion of the hearing or whenever we get six Councilmembers. Before
14 beginning your presentation, please state your name clearly for the record. There are no
15 speakers at this time for that hearing. But we don't have six yet so we'll come back to
16 that. We will now turn to Agenda item 15. The right place. Okay. And we're now at 6.
17 Okay. We have before us action on Special appropriation to the County Government's
18 FY09 Operating Budget, Department of General Services, Office of Procurement -
19 \$100,000 for Central Vendor Registration Portal, the source is Interagency Technology
20 Fund. Do we need a motion for that? Okay. I need a motion for that special
21 appropriation. Is there a motion?

22
23 Councilmember Ervin,
24 So moved.

25
26 Council President Knapp,

27 Moved by Councilmember Ervin, seconded by Councilmember Leventhal. Is there a
28 discussion on the special appropriation? Seeing none. All in support of the appropriation
29 indicate by raising your hand. That is unanimous. Thank you very much. We now turn to
30 public hearing on ZTA 08-15, Arts or Entertainment Use - CBD Zones, Subdivision
31 Regulation Amendment 08-03, Arts or Entertainment Use - Validity. We have six
32 speakers. First is Tim Firestine, our CAO, representing the County Executive, Royce
33 Hanson, Chairman of the Planning Board, Bruce Lee, representing Lee Development
34 Group, Bill Kominers speaking as an individual, Ted Mankin representing LiveNation,
35 and Jerry Miller representing the Greater Silver Spring Chamber of Commerce. All of
36 you can come on up. I don't see our CAO. All right. We may let him speak if he comes
37 over later. Chairman Hanson, you are our first speaker at this point in time.

38
39 Royce Hanson,

40 Mr. President, as I look up and down this table I feel like Max Behrbaum who got on a
41 train car with a, that was full of priests. He said here am I a lion in a den of Daniels. First
42 of all, I want to say that the Planning Board thinks the Fillmore, bringing the Fillmore to
43 Silver Spring and putting it on Colesville Road is a great idea. The Board however has
44 reviewed the proposed ZTA and SRA and unanimously recommends that the Council



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1 reject both of them. Yesterday we explored three reasonable alternatives to these
2 proposals with the County and with Lee Development Group but they expressed no
3 interest in any other approach to meeting their respective needs. The memorandum
4 from the Board which has been passed out to you describes these alternatives and
5 provides a detailed critique of the proposed amendments. In the interest of time, I'll only
6 summarize the Board's concern with the amendments. Our basic concern is for the
7 quality of the development for this important location. The amendments not only impair
8 the quality of the development of the entire site, they eviscerate both respect for the
9 sector plan and for the development review system. They also have potential to repeat
10 the offense in other parts of Silver Spring, in Bethesda, and Wheaton. Let me be
11 specific. The ZTA waives the requirement for the developer to devote a minimum of
12 20% of the property to onsite public use space. Most development in the CBD provides
13 40% or more in public space and amenities. If the applicant took the option of paying
14 into the CBD Amenity Fund, the minimum cost would be about \$2.2 million. Good
15 example of how to do this right is Chevy Chase Bank at the corner of Wisconsin and
16 East West Highway which provided both a theater and very good public space outside.
17 The ZTA attempts, exempts LDG from the normal requirement to provide amenities
18 when they develop the remainder of the property. For example, the amendment strips
19 the Planning Board of the ability to require streetscape improvements beyond their
20 immediate frontage, so concertgoers would pack onto the sidewalks that have not been
21 brought into line with the Silver Spring streetscape requirements. The sector plan's
22 recommendation for a much needed pedestrian connection would be prohibited before
23 a site plan is even considered, precluding the opportunity to meet public needs. The
24 ZTA would essentially take the place of design review and do so before there is any real
25 site plan to review. LDG has given at least 15 years of adequate public facility validity,
26 50% more time than any other project in the County. The Board is required to extend
27 this validity unless the sun rises in the west. So, if I can just finish one sentence.

28
29 Council President Knapp,
30 Summarize, yes sir.

31
32 Royce Hanson,
33 So, ZTA 08-15 and SRA 08-03, if proposed by a private applicant would not pass the
34 laugh test. It allows the developer in exchange for donating the long vacant Penney's
35 site to the County for the Fillmore, to circumvent the regulatory process and ignore the
36 sector plan to which every other development in the Central Business District is subject.
37 It forfeits any respect for good design. The sector plan.

38
39 Council President Knapp,
40 That's quite a long last sentence.

41
42 Royce Hanson,
43 For public review of the development proposal. And if you want me to tell me, tell you
44 what I really think, I'll be glad to do that.



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1
2 Council President Knapp,
3 Thank you Mr. Chairman. That's usually something we don't have a lot of trouble with,
4 but thank you. Mr. Firestine.

5
6 Tim Firestine,
7 Thank you. I apologize for being late.

8
9 Council President Knapp,
10 That's okay.

11
12 Tim Firestine,
13 I do appreciate the opportunity to testify on the Zoning Text Amendment 08-15 and
14 Subdivision Regulation 08-03. Before I, I'm going to summarize my testimony. There's
15 much more detailed testimony we'll submit for the record, but before I begin, I also
16 wanted to note that, Mr. Knapp, you just received a letter from.

17
18 Council President Knapp,
19 Yes.

20
21 Tim Firestine,
22 The governor urging the Council to support the Zoning Text Amendment and the SRA in
23 this case.

24
25 Councilmember Berliner,
26 Tim are you.

27
28 Tim Firestine,
29 My microphone.

30
31 Councilmember Berliner,
32 Forcefulness today.

33
34 Tim Firestine,
35 My microphone is on.

36
37 Council President Knapp,
38 He's good. He's on. Yep. Go ahead.

39
40 Tim Firestine,
41 Okay. The, what I said if you didn't hear it was the fact that we just received a letter from
42 the governor urging the Council to support the Zoning Text Amendment and the
43 Subdivision Regulation. It was sent to Mr. Knapp and I'm sure he'll circulate it.



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1 Council President Knapp,
2 I think it's been circulated.

3
4 Tim Firestine,

5 The bills that are before you are proposed as important tools that will create incentives
6 to help the County realize exciting arts and entertainment venues using privately
7 contributed land that will enrich the quality of life for County residents. Venues created
8 this way will save taxpayers money through developer contributions and provide
9 important public enjoyment opportunities much like other County supported recreation
10 and cultural activities throughout the County. In pressing financial times this is an
11 excellent tool to obtain cultural assets without having to use tax dollars to pay for land or
12 some other aspects of a project. Under the proposed legislation the public will realize
13 the benefit of these cultural assets potentially years before it otherwise would if forced to
14 wait for redevelopment of a site. Public facilities and amenities associated with optional
15 method projects are provided usually when a project is completed. Under the County
16 Executive's proposal, in addition to getting the land for free, the public will realize the
17 benefit of the cultural use and amenity without having to wait for a private project which
18 may not be developed for years to come. The Zoning Text Amendment provides that if a
19 developer has entered into an agreement with the County where it will convey the land
20 or the building to the County for an arts or entertainment use, that use will be
21 recognized as a public use and amenity space for its optional method project. In order
22 to do this, the developer must still go through the entire site plan and subdivision
23 process including site plan review of the public space and completion of adequate
24 public facilities reviews and the developer must provide streetscaping amenities as
25 typically required by the Planning Board. To avoid penalizing a developer for conveying
26 land that it not, that it's not otherwise obligated to convey or for that matter develop, the
27 proposed SRA will allow for a ten year validity period for the adequate public facilities
28 review. This recognizes that you can't get something for nothing. The developer gives
29 its land and is thus recognized as having banked the public use space by making it
30 available to the community potentially years in advance of when the public space would
31 otherwise be available. Finally, the Zoning Text Amendment also addresses a situation
32 that comes up in some of our master plans where we have provisions for mid block
33 pedestrian paths. In some cases these paths make perfect sense. In others, they may
34 create safety concerns and not make sense. The Zoning Text Amendment provides that
35 a developer is not required to provide such a path even though it may be in a master
36 plan where the police department has reviewed the plans and found through crime
37 prevention.

38
39 Council President Knapp,
40 All right.

41
42 Tim Firestine,
43 Through environmental design review that the proposed path would.



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1 Council President Knapp,
2 I think your sentence is longer than the Chairman's.

3
4 Tim Firestine,
5 An unsafe pedestrian environment.

6
7 Council President Knapp,
8 I think we, I know.

9
10 Tim Firestine,
11 I think you got the gist.

12
13 Council President Knapp,
14 We got the, I'm sure there will be some questions so we'll, thank you very much for your
15 testimony and for pointing out the letter and I think Councilmembers have a copy of the
16 letter from the governor. If not, Mr. Zyontz has one. Mr. Lee.

17
18 Bruce Lee,
19 Council President Knapp and Councilmembers, thank you for the opportunity to come
20 before you today and testify on Zoning Text Amendment number 08-15 and Subdivision
21 Regulation Amendment number 08-03. Obviously we are very much in support of both
22 of these. It makes a lot of sense in terms of the creativity that they bring in terms of
23 trying to figure out how a property owner gives away very valuable land in advance of a
24 project, a project that they don't have. If you go back six years ago when the County
25 first approached us, we were really minding our own business and operating a parking
26 lot and the then County Executive and head of Department of Economic Development
27 said, you know, we need to try to figure out how to clean up this side of the street
28 across from AFI and Discovery and would you be interested in a musical venue to be
29 your public amenity and we said well, there's no process for that, how do you do it? To
30 their creativity and the continued creativity of our current County Executive Ike Leggett
31 and Department of Economic Development, we feel that we have a good vehicle here in
32 this ZTA and SRA. When we met with Park and Planning four years ago and asked
33 them, you know, what do we do, how do we do this, what's the process, they said there
34 is no process, you need to go get a ZTA and an SRA. We're here today because of that.
35 We support this. In these difficult economic times as Mr. Firestine was just alluding to,
36 market conditions are such that we don't have a project. That's the complexity of this
37 situation. When you have a phenomenal opportunity, iconic in many ways, you've got a
38 music hall venue, you have LiveNation Fillmore waiting in the wings with a lease signed
39 ready to pounce, state funding is in place, this is an incredible economic opportunity for
40 downtown Silver Spring. We're simply asking to be protected. We're giving very
41 valuable land. If you'd asked me six years ago that we'd have this much difficulty
42 donating very valuable land, I would have said, you're kidding. We're here, we're
43 committed, and we're willing to see this through. Thank you.



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1 Council President Knapp,
2 Thank you very much . Mr. Kominers.

3
4 William Kominers,
5 [indiscernible] in Bethesda. This legislation is an extension of issues that began with the
6 County's Text Amendment 07-10. This legislation addresses elements of arts and
7 entertainment uses that were removed from 07-10 in deference to prospective
8 legislation. This is that legislation. This proposal responds to two elements. First,
9 avoiding the proliferation of small public use spaces that are not always functional for
10 their intended purposes. 07-10 created one mechanism or tool to address this issue,
11 and ZTA 08-15 provides another. Second, facilitating new ways to provide amenities
12 and uses that benefit the County and that the County desires but approach on a
13 proactive affirmative way without waiting for the market to bring forward a development
14 project. This is similar to building roads or other public facilities before the development
15 that they support. Like 07-10 that brought in daycare, public art, and pedestrian bridges,
16 this legislation allows land for arts or entertainment uses to be used to satisfy these
17 same requirements. The legislation facilitates a process for securing space for arts or
18 entertainment uses that otherwise would never occur because the process needed is
19 backwards relative to the normal sequence of a development project. The legislation
20 allows the County to identify, create, and actually implement the public amenity before
21 the development project occurs. Where market conditions or other factors delay or
22 prevent the project that would otherwise delay the public benefits, the legislation
23 facilitates achieving the benefits in advance without the development project. The
24 legislation still uses the applicant or the property owner as the vehicle for providing the
25 land but the legislation allows the County a greater role to make a broader judgment of
26 what facilities are needed or desirable for the community. Most importantly, the public
27 benefit is provided in advance so that the community gets an earlier use of the facilities.
28 The approach is available to any property so long as the owner is crazy enough to give
29 up the land in advance. So what happens to that poor applicant who has given up that
30 land long before he would otherwise have done so? The legislation is designed to
31 provide some certainty of fairness to the owner when the actual development project
32 finally proceeds. The public use or amenity is normally provided under the optional
33 method of development in return for an expanded envelope for the project, certain
34 increases in height, density, setbacks, and so forth. The applicant, having provided the
35 amenity that supports the expanded project parameters, when the project finally comes
36 forward, is not penalized by reductions in these parameters that have formed the design
37 assumptions and the economic bases of the project. The legislation also assures that
38 the development project is given enough time in which to go forward so as to allow the
39 market to reach the level needed to justify the project. The legislation tries to assure that
40 the applicant will be protected in being able to implement the project when the time
41 comes. The applicant performs its part of the bargain by providing the land for the public
42 benefit. The legislation is designed to assure that the government will fulfill its
43 corresponding commitment so the applicant obtains its portion of the bargain. Thank
44 you very much.



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1
2 Council President Knapp,
3 Thank you very much . Mr. Mankin.

4
5 Murray Horwitz,
6 Mr. Chairman I'm speaking in place of Mr. Mankin.

7
8 Council President Knapp,
9 Okay.

10
11 Murray Horwitz,
12 My name is Murray Horwitz. I'm a Montgomery County resident. My name is Murray
13 Horwitz, I'm a Montgomery County resident. Thank you. And I'm the Director of the AFI
14 Silver Theater on Colesville Road in Silver Spring. I hope to speak uncharacteristically
15 briefly in favor of these amendments and also against the danger of complacency with
16 regard to downtown Silver Spring and the Arts and Entertainment District. The success
17 of the revitalization project there is by no means assured and in order to assure that
18 success, I think we need to take action and we need to take it now. The project is ten
19 years old. We at the AFI theater have been open for five. In all that time, nothing has
20 changed across the street. We're at a turning point. If we don't take advantage of the
21 moment, it may well be another ten years or even longer. The message of active
22 discouragement that not approving these measures will send to the citizens of Silver
23 Spring, the citizens of the County, indeed, to the whole national capital region from
24 which our Arts and Entertainment District must draw in order to succeed, our audiences,
25 the failure to do so and that active discouragement will, could have an actually lethal
26 effect. This is not theoretical. Just this morning my colleague Ray Barry and I met with
27 some eight counselors from European embassies with regard to our European Union
28 film showcase which we have every fall and which is very, very successful and is
29 always a national, and indeed an international event by its very nature. The counselors
30 asked us, well, is there any way we could do some of these screenings elsewhere too,
31 you know, could we move it out of Silver Spring, have it a little closer to downtown
32 Washington perhaps. We made arguments but this, we shouldn't have to make those
33 arguments. With the development and the success of the revitalization project, we won't
34 have to. But as I say, we're at a crucial point. Clearly, the marketplace by itself will not
35 solve this problem any time soon. It hasn't for over 20 years and I mentioned
36 complacency, the antidote for complacency is courage. And just as the County took
37 courageous action ten years ago, I would argue that it needs to continue that today. I
38 want to mention just a word or two about LiveNation Fillmore. It is the Cellar Door Group
39 which will be, which many people remember fondly. I couldn't be more encouraged by
40 our contacts with them. The Cellar Door Group got in touch with us when this became a
41 possibility and asked us about our educational and community programs. We look
42 forward to collaborating with them on the highest artistic level. Thank you.

43
44 Council President Knapp,



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1 Thank you very much. Mr. Miller. Turn on, there you go. Thank you.

2
3 Jerry Miller,

4 President Knapp, member of the Council, good afternoon. My name is Jerry Miller. I am
5 the Chair of the Greater Silver Spring Chamber of Commerce, a membership
6 organization representing almost 400 businesses small and large which together have
7 led and driven the economic renaissance in Silver Spring. I am also a resident of
8 Montgomery County and I own and operate a small business and Minuteman Press and
9 printing franchise that has offices in both Silver Spring and Bethesda. On behalf of the
10 Chamber, I am here today to urge your support for Zoning Text Amendment 08-15 and
11 Subdivision Regulation Amendment 08-03 which would allow plans to move forward to
12 bring Fillmore Music Hall to Silver Spring. As the Chamber has told you many times
13 before, the successful redevelopment of Silver Spring has created a new energy and
14 vitality in our community that is nothing short of amazing. Today there are more
15 businesses, more jobs, more places to live, more reasons for people to visit Silver
16 Spring and spend their money than anyone could have imagined several years ago.
17 When I left the corporate retail world just four years ago, I chose Silver Spring for my
18 first location because of the tremendous opportunity I saw as a result of this
19 revitalization. Even during my short time in Silver Spring, we've come a long way. But I
20 think you'll agree with me that we're not there yet. Much work remains to be done to
21 finish Silver Spring especially along Colesville Road, across the street from AFI Silver.
22 For almost 20 years now the former J.C. Penney site has languished. It is a vacant shell
23 of a building, an embarrassing eyesore, and quickly, frankly, a deterrent to the
24 economic revitalization that this side of the street so desperately needs. Our previous
25 County Executive as well as our current one have seen at this location a unique
26 opportunity to create something that will turn this decaying place into a vibrant, lively
27 destination with the potential to attract thousands of new visitors to Silver Spring. The
28 state and County governments have committed the dollars to build the project. All that is
29 needed is for your elected, is for our elected Councilmembers to give your support to
30 the two measures before you today. The Montgomery County Finance Department has
31 estimated that the Fillmore project from the beginning will bring almost 1.7 million
32 dollars annually in financial benefits into the County and state. And that number doesn't
33 include additional tax revenues on dollars spent with other local merchants for food,
34 transportation, other purchases, and hopefully printing as well. The purpose of the Silver
35 Spring, I had to get that in, the purpose of the Silver Spring Arts and Entertainment
36 District is to stimulate the creation of cultural activities that will enrich the lives and
37 experience our residents and visitors. The proposed ZTA and SRA which we
38 understand would apply only in Arts and Entertainment Districts within the Council's
39 Central Business Districts, would help to achieve this purpose. These measures would
40 also give the public the benefit of these arts and amenities early, before the
41 redevelopment is completed. In these economic times, isn't that a nice bonus? To me,
42 it's kind of like getting the prize when you first open a box of Crackerjacks instead of
43 waiting until you've eaten your way to the bottom of the box. If the property owner and
44 developer are going to make sure the prize is near the top of the box, in this case, the



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1 public use space or public amenity, there needs to be an incentive. The incentive
2 offered by the measures you are considering today is time, specifically, an extension of
3 time to develop the project. And in the current and foreseeable economic climate, this
4 extension of time is critical. Look up and around and you'll notice the slowdown in all
5 manner of construction, of homes, hotels, office buildings, and residences. The Silver
6 Spring Chamber of Commerce.

7
8 Council President Knapp,
9 Mr. Miller, we've got the rest of your testimony.

10
11 Jerry Miller,
12 Okay.

13
14 Council President Knapp,
15 So, and I think there will be some questions.

16
17 Jerry Miller,
18 Okay.

19
20 Council President Knapp,
21 Thank you.

22
23 Jerry Miller,
24 Thank you.

25
26 Council President Knapp,
27 Councilmember Elrich.

28
29 Councilmember Elrich,
30 A list here, I guess my first question is for the Planning Board Chair. You've talked
31 about what you won't be able to get. I guess, I wonder if you could be explicit about, if
32 this project was built today on the space of the parking lot behind it, what amenities
33 would you get and how does what's being given compare to what amenities you would
34 normally get from a project?

35
36 Royce Hanson,
37 What would normally be provided with a project that would include both this site and the
38 parking lot, which is the remainder of the site, we would normally get somewhere in the
39 order of about 40% of the net lot area in public space. I think our average overall is
40 about 38%. In some projects we get as much as 60%. We would receive an amenity
41 package which might include art or plantings or other amenities that would be available.
42 In some cases, we have counted indoor space as a part of either the amenity package
43 or as the public space. The general requirement for public space is that it be available to
44 the public and accessible to the public. We would make sure that it, that the project as



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1 the Central Business District Zones require conforms to the sector plan for the Central
2 Business District. If a developer came in with, let's say a plan that showed an unsafe
3 facility, such as a pedestrian access area, we would bring that to the development
4 review committee, the police department would probably say this is unsafe and we
5 would require it to be redesigned so that it could be safe. The adequate public facilities
6 validity which would take place at the time of subdivision would provide, under the
7 current growth policy for a five year validity period, renewable for five years if a certain
8 amount of development had taken place or if the failure to proceed was not the fault of
9 the applicant. That's just a very brief summary of what would be required.

10
11 Councilmember Elrich,

12 Would one of the things you'd consider be the economic circumstances? Because I
13 think one of the things that makes this somewhat different is if somebody brings a
14 project forward and they want to build it, you're assuming they're ready to go forward
15 and they're meeting the current conditions, you're starting the clock running before
16 they're ready to start the clock running on their project. That's the argument that's been
17 made for a longer initial validity period.

18
19 Royce Hanson,

20 That's correct. I think there's some reason to that argument. We had agreed previously
21 that the space for this facility for the Fillmore, or at the time it was another one, could be
22 counted as the public space even though it represents only about 14% of the net lot
23 area. It is interior space. It will be finished. It does provide a very valuable facility for the
24 Silver Spring area. That was in the previous Text Amendment and was stripped out of
25 that Amendment because of whatever, but the Amenity Fund alternative was passed
26 and included in that Amendment.

27
28 Councilmember Elrich,

29 So you would get essentially 14% rather than 40% of the net lot area in this one?

30
31 Royce Hanson,

32 That's correct. Plus this Text Amendment goes further and essentially would not
33 essentially permit us to require any streetscaping beyond that directly in the front of the,
34 of each phase which would be the 90 feet in front of the Penney's store and it would be
35 whatever frontage is on Fenton and Georgia when the rest of the development
36 eventually occurs.

37
38 Councilmember Elrich,

39 How is that different than what you would normally get?

40
41 Royce Hanson,

42 Well, normally we require if everything can't be done on site, we frequently require fairly
43 extensive streetscaping to deal with the area. In some cases we will require off site
44 streetscaping. We recently had a project in Bethesda in which we're requiring the



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1 developer to provide streetscape on the opposite side of the street because there is not
2 enough room to do it on their side of the street. The idea is to try in these Central
3 Business Districts to bring the quality of the overall environment up to the standard that
4 we're trying to achieve in these Districts.

5
6 Councilmember Elrich,

7 A question for Mr. Lee. If you, you've asserted that you wouldn't be able to fit your
8 project in if you have to do the public, the walkway. Well, if you weren't doing this
9 project right now and Park and Planning normally extracted 40% of the 60% of your
10 property and that lot area, how would you fit it in then?

11
12 Bruce Lee,

13 At this time we don't have a project. So you're saying hypothetically if we had a project
14 at this point in time?

15
16 Councilmember Elrich,

17 You've told me hypothetically that you couldn't, you've told me hypothetically that you
18 can't make it work if you have to use the walkway.

19
20 Bruce Lee,

21 When the County came to us with the idea of a music hall venue we participated in very
22 in depth schematic design and floor plate footprints to make sure that we could
23 accommodate a Fillmore type building. The good news is it just fits. Yes. What we've
24 looked at are floor plates for hotels, floor plates for office, floor plates for a parking
25 garage underneath and in order to accommodate the Fillmore in addition to what's being
26 referred to as the 14%, we have a large area behind the Fillmore which is going to be
27 an easement area to provide for trucks and buses which music hall venues have
28 substantial numbers of trucks and buses for every event.

29
30 Councilmember Elrich,

31 But isn't that a public alley that serves all the other properties?

32
33 Bruce Lee,

34 No. That would be on our property.

35
36 Councilmember Elrich,

37 Where's the public, I mean, there's a public alley that goes all the way up there?

38
39 Bruce Lee,

40 In addition to the public alley that comes up from Georgia Avenue, the area for the
41 parking would be on the private property.

42
43 Councilmember Elrich,

44 Isn't that normal?



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1
2 Bruce Lee,
3 Isn't it normal? Is it normal to provide for that type of a venue? The problem is that we're
4 not getting rental income from that venue. That venue is going to be operated and
5 leased to the County. We're going to be, in addition to what we're doing with the
6 Fillmore, providing that area for trucks, buses, trash, it's quite a large area.

7
8 Councilmember Elrich,
9 How does that, I mean, I'm just, you know, I'm listening to this argument that they give
10 you.

11
12 Bruce Lee,
13 But.

14
15 Councilmember Elrich,
16 That they would get 40% of your net area.

17
18 Bruce Lee,
19 The problem with the whole debate Marc is that we don't have a project. So I'm not sure
20 I'm understanding what your line of questioning is here.

21
22 Councilmember Elrich,
23 Well, I mean, you started out by asserting that you couldn't do your project if you had to
24 provide the walkway and now you're saying you don't have a project.

25
26 Bruce Lee,
27 From this.

28
29 Councilmember Elrich,
30 Which means that you don't know what.

31
32 Bruce Lee,
33 To answer that question, from the schematic design that we have done and the floor
34 plates that we have, in terms of the turning radius for a future garage, it was very clear
35 that the walkway would not fit. You have a topography problem of 12 feet, a drop of 12
36 feet from Fenton Street down to Georgia. You would have elevators. It would be
37 extremely difficult to do that. Plus, you have two different potential buildings. One would
38 have security issues. We don't know. We just, we know we can't provide both.

39
40 Councilmember Elrich,
41 Okay. There's nobody here from LiveNation? I just wanted to point out that I saw this
42 flier and it has a list of bands on it that would come to the Fillmore, and I have letters
43 from two of the agents that said, you know, for Death Cab, for Cutie, and for, let's see,
44 Drive By Truckers, Bryan Adams, [indiscernible], and Robin Hitchcock, that the people



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1 who represent them have never been approached by LiveNation about bringing them to
2 the Fillmore in D.C. In fact, they book with somebody else. I mean, this is just two
3 emails I got.

4
5 Council President Knapp,
6 Folks. Folks.

7
8 Councilmember Elrich,
9 I mean, I think there's been a lot of hype about how things are going to be done or
10 what's going to happen here. I just wish we were discussing what the merits of this thing
11 are which is, you know, what can work here, what is Park and Planning asking for, what
12 doesn't work? I mean, I'm having a hard time understanding why there can't be some
13 kind of accommodation taking some of Park and Planning's concerns and some of your
14 concerns. It seems to me that the point of this hearing and the fact that it's going to be
15 coming before the PHED Committee is to try to work things out and it's kind of
16 frustrating if everybody at the table's saying there's nothing to work out, this is my iron
17 clad position, and I'm not interested in trying to get to a solution. I think most of us would
18 like to try to get to a solution.

19
20 Tim Firestine,
21 Mr. Knapp.

22
23 Council President Knapp,
24 Mr. Firestine.

25
26 Tim Firestine,
27 I know this isn't a worksession, but you know, we do have a counter to the 40%
28 argument. We can discuss it now or we can go to the worksession. We think there's
29 much more value, the Planning Board Chairman said a buyout would be 2.2 million, we
30 think there's at least 6 and a half million dollars of value in this project. To say it's 14%,
31 we don't agree with that. We do believe that the percentage is much higher. For
32 example, if you take all of the floor space in the building which could be counted, then
33 we're talking about 30%. You know, I know you don't want to turn this into a
34 worksession.

35
36 Council President Knapp,
37 No.

38
39 Tim Firestine,
40 But certainly there are.

41
42 Council President Knapp,
43 We're not going to. I wanted to let you get the information.



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1 Tim Firestine,

2 There are other points of view with the issues that have been put out on the table.

3
4 Councilmember Elrich,

5 But there's a lot of interest in this. And I think as much of the issues out on the table now
6 is a good thing. I'm not going to continue to debate all the little nuances of this thing.

7
8 Council President Knapp,

9 Any further questions?

10
11 Councilmember Elrich,

12 Yeah. I mean, my question is for Royce actually. What is wrong with the conditions for
13 renewal that have been proposed by the Executive? I mean, they, I mean, you said the
14 sun would have to rise in the west I think. I actually read it as actually we'd have to have
15 relatively bad economic conditions and that there are actual real economic conditions
16 that the Lee's would have to meet in order to get an extension of the terms. That seems
17 to be different than the sun rises in the west.

18
19 Royce Hanson,

20 [indiscernible]. The, but let me read you what the SRA requires. It says the Planning
21 Board must grant an application to extend the APF validity for an additional five years if
22 the Fillmore is built, or it's under construction, or has a building permit, or is subject to a
23 lease, or has had a site plan approved, or the vacancy rate for class A office space
24 including sublet space has reached 10% in the two years prior to applying for an
25 extension, or the applicant commits to the County that we'll contribute \$2 for each
26 square foot of approved taxable improvement and makes the contribution within six
27 months of the final approval of the extension of the validity period. And the validity
28 period excludes any moratorium or government action that would prevent the applicant
29 from completing the regulatory process and obtaining a building permit. I've said in the
30 memorandum to you that the only secret organization that I belong to is one called the
31 Ancient Beneficent Order of the Red, Red Rose. It's for Oklahoma schoolteachers. To
32 be a member of the Red, Red Rose, you have to be a schoolteacher, have been a
33 schoolteacher, expect to become a schoolteacher, or at some time in your life have
34 attended school. It would be pretty hard to find under this set of exceptions any reason
35 not to or any basis for not extended validity. It would have been a lot simpler just to say
36 no matter what, they get five more years.

37
38 Councilmember Elrich,

39 I guess what I would like coming forward when this gets to the Committee is some
40 thought about what you think might be reasonable economic conditions. I certainly
41 wouldn't expect somebody to be required to build an office building in a climate when
42 the office building is not going to get sold. I mean, if you're forcing the timeline on the
43 early side, which I think is one of the things we've got to deal with here, you can't force a
44 project to either premature construction or to walk away from it, you know, on no



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1 reasons whatsoever. I mean, it seems to me, they've got to have some consideration of
2 the market. I wish you would give some thought to what those considerations in the
3 market ought to be.

4
5 Royce Hanson,

6 Well, what we were doing initially is simply reflecting on the growth policy that the
7 Council most recently passed. That's the basis on which we grant a validity period for
8 adequate public facilities. Now, remember that in this case, the adequate public facilities
9 validity would not even start until the land or building has been transferred to the
10 County. That's probably about three years out from when you start. Normally, the
11 validity period starts with the approval of the subdivision because it's connected to the
12 subdivision ordinance. It runs for five years. Usually people don't come in with a
13 subdivision until they're ready to proceed. Now one way of dealing with this particular
14 problem which we have suggested is that to come in with really a very simple
15 subdivision at this point. And with, not showing an extensive development other than on
16 the Penney site, and then when the applicant is ready to actually proceed to build to
17 come in with an amendment to the subdivision showing the full development and
18 starting that validity period over. I think that would work.

19
20 Council President Knapp,
21 No, I agree.

22
23 Royce Hanson,
24 Developments all over the County work within this.

25
26 Council President Knapp,
27 I think once we get to the Committee, I think it would be worthwhile to have some of
28 those alternatives. We do have three other Councilmembers with questions and we
29 have got 24 more speakers to get to this afternoon. Okay. Thank you.

30
31 Councilmember Elrich,
32 I just wanted to get some of this stuff out on the table.

33
34 Council President Knapp,
35 Understood. Appreciate it. Councilmember Berliner.

36
37 Councilmember Berliner,
38 Thank you Council President. I do appreciate this isn't a worksession so I won't go back
39 to some of the conversation we've had. Dr. Hanson you made reference to three offers
40 that you submitted yesterday I believe. Would you give some detail with respect to
41 those?

42
43 Royce Hanson,
44 Do you want me to do that now?



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1
2 Councilmember Berliner,
3 Just some, just, they're here, I apologize.

4
5 Royce Hanson,
6 Yeah, basically the three alternatives, the one that I just mentioned, another would be to
7 amend the, in terms of a validity period to amend the growth policy because you already
8 have exceptions in the growth policy for the validity of adequate public facilities or for
9 the application for the growth policy to those areas in particular. The third would be to
10 use a never before used provision of Article 28 which allows for a development
11 agreement to be developed. This would take Council action to authorize that.

12
13 Council President Knapp,
14 These are included in your testimony.

15
16 Royce Hanson,
17 They are included in testimony in brief, yeah.

18
19 Councilmember Berliner,
20 Yes sir?

21
22 Tim Firestine,
23 I would just like to note that we did meet with the Planning Board Chairman yesterday
24 and the developer and we talked about those options. We can go into it in more detail at
25 the Committee level but we don't think at this time any of those options would be
26 suitable options for this project.

27
28 Council President Knapp,
29 We will go into it more in detail.

30
31 Councilmember Elrich,
32 Can you give us a written response before?

33
34 Tim Firestine,
35 Certainly, we can do that.

36
37 Councilmember Berliner,
38 One follow up question, Dr. Hanson, you also made reference, and again I apologize if
39 it's in your testimony, to the fact that this has broader application than just Silver Spring
40 and includes Bethesda as well and it's an Art and Entertainment District that is near and
41 dear to my heart as Silver Spring is. I certainly am very supportive of this particular
42 property finally coming into its own and generating the economic development that this
43 community has too long endured being in the state it is. So let me just make sure that
44 people appreciate that none of us who are casting questions here have any doubt that



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1 this particular site must be developed and is long overdue and so, we are quibbling as
2 to whether or not this particular way of achieving that result or that particular was is the
3 best way, but it isn't because we do not understand why developing this particular site is
4 so important to my colleagues and to the people who are here. It's an embarrassment. I
5 think it was well said. It is an embarrassment. It should not be endured. You made
6 reference that this goes beyond this particular site to Bethesda. So, tell me if your
7 concerns with respect to the broader application of this particular ZTA.

8
9 Royce Hanson,

10 Well, because it is a ZTA, it has had to be written broadly rather than to say at this
11 location on Colesville Road the following provision applies. It was written so that it
12 applies to any other site in the Arts and Entertainment District in the Central Business
13 Districts that have Arts and Entertainment Districts, which are three of them.

14
15 Council President Knapp,

16 Councilmember Ervin.

17
18 Councilmember Ervin,

19 Thank you very much. I really enjoyed hearing my colleague Roger Berliner basically
20 say he's in support of the ZTA and the SRA. [laughter]. I look forward to the vote when
21 the vote is taken. I look forward to having more conversations with my colleague. I am
22 going to refer to Mr. Hanson's testimony here for just a brief second. I'm just really
23 surprised at some of the comments that you make in your testimony. They seem to be
24 very far reaching as far as I'm concerned. I will draw the audience to page 6 of your
25 testimony in which you state the Fillmore and its structural setting should be designed
26 by architects rather than lawyers and property managers. This is a gateway and
27 signature site in Silver Spring. It must not be ruined by gutting the public review process
28 in a way that essentially sanctifies any deal the Executive can cut. It seems to me this is
29 really about who's got discretionary powers, whether it be you, the Chair of the Planning
30 Board or the County Executive. We have gone through this so many times since I have
31 been sitting at this dais for 20 months, and we should not put this important project in
32 the crosshairs of this ongoing turf struggle between the Executive Branch and the
33 Planning Board. If you have a comment, I would like to hear it.

34
35 Royce Hanson,

36 I think it would be a mistake to think of this as just a turf struggle. I think that we have
37 had some difficulty in recent years in establishing the integrity of the planning in the
38 development review process. I think it, our concern is not just with the integrity of the
39 process, it's also with the quality of what comes out of that process. One of the things
40 that has been established for a long time in this County is the careful development of a
41 capacity to do project reviews at the Planning Board, to see that we get better design
42 than we might otherwise get. What this ZTA and SRA do is basically make critical
43 design decisions before there is a project to review. This is not a good idea. The



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1 Fillmore is a good idea. Achieving it is a good idea. This is not a good means to that
2 end.

3
4 Council President Knapp,
5 Councilmember Leventhal.

6
7 Councilmember Leventhal,
8 Well, Councilmember Ervin zeroed right in on one of the sentences I was going to
9 identify as well. Mr. Lee, will there be architects involved in the design of the Fillmore?
10 [laughter].

11
12 Bruce Lee,
13 To clarify on that, about four years ago, Hicock and Cole were the architects that were
14 selected by both the County and ourselves. They have extremely detailed designs of
15 what used to be the Birchmere and now the Fillmore and all those designs and plans
16 are in the hands of Davis Construction who's in the process of doing the value
17 engineering. So the answer is absolutely.

18
19 Councilmember Leventhal,
20 Well that's very comforting because it would seem from the Planning Board's testimony
21 that somehow the building was being designed without architects. I understand the
22 Planning Board's testimony is purely rhetorical but the County Council actually relies on
23 the Planning Board for accuracy not just rhetorical effect. Is the Lee Development
24 Group in the business of designing unattractive, undesirable structures?

25
26 Bruce Lee,
27 I appreciate that question. No. If you look at Lee Plaza, our flagship office building at the
28 corner of Georgia Avenue, you will see that our architectural detail to preserve a lot of
29 the historic preservation and ideas of art deco were incorporated on that building. Very
30 expensive. We went high end with marble and granite and we have a lot of brass all
31 throughout the building which I frankly wish we didn't have because it's high
32 maintenance. But no, we build quality. Same thing with our residential subdivisions.
33 We've been in business since 1920. Our headquarters have been in downtown Silver
34 Spring since that time and before. We're not going anywhere. And so what we do is
35 quality.

36
37 Councilmember Leventhal,
38 And the Lee family has been acquiring real estate for a long, long time and is in, and is
39 the definition of patient capital. You're going to wait until the right opportunity and you
40 have the land and you need not be rushed and don't want to be rushed. You're not in a
41 hurry to move into a development here.

42
43 Bruce Lee,



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1 I appreciate that. We're very conservative in what we do. We're really a fourth
2 generation family business. We have over 107 family members who are share holders.
3 We have trusts that are involved. So we have a lot of fiduciary duty. We're not your
4 typical developer. We don't go out and take on the type of risk of a speculative building.
5 We did that once. We learned our lesson. We'll never do it again. We're not here to
6 destroy our company. We're here to preserve it for the next generation. So we work
7 very hard to make sure that what we do makes economic sense, it's economically viable
8 and right now, with the state of the residential market, with the costs of construction for
9 office, and where the rental rates are, the economy is not there. It could take a long
10 time. If you look at the history of downtown Silver Spring, and if you just take the
11 apartment building of Bryant Foulger's next to the NOA buildings on East West
12 Highway, that property received approvals back in the mid-80s. It wasn't until about five
13 years ago that it was delivered because it took that long for the economy of scale to
14 arrive for the apartment market to work. Another great example is the Enterprise Zone.
15 When the state designated downtown Silver Spring as an Enterprise Zone it was
16 designated for ten years and it was extended for five because ten wasn't enough. Even
17 the state recognized that time can take some, you know, no pun intended, time.

18
19 Councilmember Leventhal,

20 Okay. Last question. Chairman Hanson identified the Chevy Chase Bank headquarters
21 at East West and Wisconsin as a good example of something the Planning Board
22 approves of. What do you think about that project and what do you think about it in
23 relation to what might eventually come to fruition at the corner of Colesville and
24 Georgia?

25
26 Bruce Lee,

27 I think most of the new development over the last 15 years plus in Bethesda, very
28 attractive, a lot of quality that's been built in Bethesda. I think the same for Silver Spring.
29 I think when you look at Foulger Pratt, Peterson, and what everyone has been trying to
30 do for Silver Spring, and we lobbied hard in support of them. We're here to build quality.
31 That's our focus.

32
33 Councilmember Leventhal,

34 Is it reasonable to think that if the ZTA were enacted that the outcome at the corner of
35 Colesville and Georgia would be substantially inferior to the Chevy Chase Bank project
36 at the corner of East West and Wisconsin?

37
38 Bruce Lee,

39 I think you'd be looking at a fantastic opportunity for the County to potentially draw an
40 even better quality type of project on our site. You could have a three star, four star
41 hotel be interested. You could have hopefully an NPR type of opportunity which
42 unfortunately, sadly, Silver Spring lost. We have the opportunity with Fillmore to bring
43 not only for our site but for all of Silver Spring a fantastic opportunity. This is a great
44 economic initiative. I mean, the fact that we have survived two governors, two County



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1 Executives, two Park and Plannings, two Departments of Economic Development, and
2 two Presidents of Lee Development Group is an indication that this makes sense. Did
3 we recognize that this was outside the process and outside the box? You bet we did.
4 When David Edgerly said that, you know, we want this to be your public amenity before
5 you have a project, how do you do that? It involves Park and Planning. You know,
6 they're process oriented. How do you get beyond the process? How do you get
7 creative? We need creative thinking especially in this economy right now.

8
9 Council President Knapp,

10 Okay. This concludes the questions or comments for this panel. I appreciate everyone's
11 participation and your advocacy. There will be much more discussion at the Council
12 worksession in September. We are, our next panel includes Tom Collins speaking as an
13 individual, Marcus Johnson speaking as an individual, Nancy Schwiesow speaking as
14 an individual, Brad Stewart representing Montgomery College, Dan Cohen representing
15 Silver Spring Ford, and Laura Steinberg speaking as an individual. I have two
16 housekeeping matters to clear up before we get to the first speaker. Councilmember
17 Floreen is at the physician, is at a physician's appointment. She will be joining us when
18 she can. And I had neglected to actually read the opening statement. I apologize for
19 that. So, let me do that so it's read into the record. This is a public hearing on Zoning
20 Text Amendment 08-15, Arts or Entertainment Use - CBD Zones which would establish
21 a definition for an arts or entertainment use, expand the means to satisfy the public use
22 space, and public facility and amenity requirements of the optional method of
23 development in the CBD Zones, under certain circumstances, amend the findings
24 required for approval of project land, amend certain development standards for a project
25 that includes an arts or entertainment use, and allow for the establishment of a different
26 project plan and site plan validity period for an arts or entertainment use. And on
27 Subdivision Regulation Amendment 08-03, Arts or Entertainment Use – Validity which
28 would provide for an extension of the validity period for an adequate public facilities
29 determination for certain properties, provide for the approval of a site plan to validate
30 phases of a preliminary plan and project plan for certain properties under certain
31 circumstances, and provide for the recordation of a final record plat to validate all
32 phases of a multiphase preliminary plan for certain properties under certain
33 circumstances. There are three exhibits included, copy of ZTA 08-15 and SRA 08-03 as
34 introduced, copy of a resolution establishing the public hearing date and time, and proof
35 of advertisement in Montgomery County Sentinel. Persons wishing to submit additional
36 material for the Council's consideration should do so before the close of business on
37 September 19, 2008. A Planning Housing and Economic Development Committee
38 worksession is tentatively scheduled for September 29, 2008 at 2:00 p.m. Please call
39 (240)777-7900 for information. Before beginning your presentation, please state your
40 name clearly for the record and spell any unusual names. Our first speaker for the
41 second panel is Mr. Collins.

42
43 Tom Collins,



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1 Council President Knapp and Councilmembers, my name is Tom Collins. I live at 314
2 Brewster Court, Silver Spring, Maryland. I group up in and now own a home in Silver
3 Spring. I work in Silver Spring at – Online located at 1010 Wayne Avenue. I have served
4 the community as Chairman of the Board of the Greater Silver Spring Chamber of
5 Commerce and the Silver Spring Urban District Advisory Committee. I've also served as
6 President of my citizen's association, the Indian Spring Citizens Association. I went to
7 elementary school in Silver Spring. My first job was in Silver Spring. My daughter goes
8 to public school in Silver Spring. I know a little bit about Silver Spring. I'm here today as
9 a citizen and to ask the County Council to vote in favor of ZTA 08-15 and SRA 08-03.
10 Although you hear many reasons today why you should vote in favor, I'd like to break
11 my testimony down into some simple concepts. The north block of Colesville Road
12 between Fenton and Georgia has long been a retail hub of Montgomery County.
13 However, since the 1980's this block has fallen in disrepair and has never really
14 recovered. Not to disparage any businesses in that block, I think we can all agree that
15 there is room for improvement. The Executive Branch of County Government has gotten
16 creative and found a way to bring new life into that block and act as a catalyst for
17 stimulating economic development that benefits all of Montgomery County. In
18 association with a local family business and a national entertainment company, we've
19 been presented with a public private partnership that has proven to be successful in
20 Montgomery County before and has served as a model elsewhere. But as with other
21 creative ideas, there are some prior rules that need to be changed. For instance, what if
22 Thelonious Monk --restricted as creativity to prior norms and didn't explore dissonant
23 harmonies and angular musical twists? What if Pablo Picasso painted within the
24 confines of the – of putting ears on the side of a head and eyes around a nose?
25 Presented with the challenge of improving downtown Silver Spring and offered a
26 solution, a public private partnership with parties that can carry out what they say they
27 are going to do, we face a road block. There's some language on the books that
28 prevents us from getting there from here. We need a creative solution. So, we changed
29 the language so that we can rise up to the challenge and meet the needs of the
30 community. The proposed change to the ZTA, although it reverses the order in which
31 the community receives a public amenity, is a welcome change to the process. As we've
32 seen with the civic building process, putting the cart after the horse hasn't worked out.
33 Now we can actually incentivize the process to deliver an amenity as promised and on
34 time. We're also modifying language so we can take advantage of new information
35 about schedules and timelines. The wheels are in motion for the amenity but not for the
36 accompanying project. We do not have a five year plan and as you all well know these
37 things take time. Look at the timeline for our civic building. Look, we're been given land,
38 we're being given land and in return the local family doing the giving is simply asking for
39 a more realistic block of time to meet the 21st century schedule and timeline for
40 development in Montgomery County. Please vote in favor of ZTA 08-15 and SRA 08-03.
41 This is an economic development opportunity for all of Montgomery County. We should
42 take advantage of the good fortune we've been presented.

43
44 Council President Knapp,



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1 Thank you very much. Mr. Johnson.

2
3 Marcus Johnson,

4 Stop me already huh? Mr. President and members of the County Council, my name is
5 Marcus Johnson. I'm a jazz musician, composer, and President of Three Keys Music
6 which has a recording studio and two music publishing companies within Silver Spring.
7 My 11 CDs have all reached Billboard's contemporary jazz chart top 25. I've performed
8 throughout the nation and world including the Silver Spring Jazz Festival. I'm a resident
9 of Montgomery County where my two publishing companies and recording studio, as I
10 mentioned, are located. But most importantly, I am a musician whose humble
11 beginnings started in the jazz band room of Blair High School. Each day I would walk to
12 Holy Names where I waited for my then girlfriend and we would walk through Hastings,
13 through the old parking lot in the Hechts, where we would stop and pretend we were
14 stars before she loaded onto the Z2 and I walked to my home in Woodside Station. As a
15 young musician I always, always wished there was a place in Silver Spring where I
16 could see top notch talent and a place where I could get exposure to what I felt was my
17 top notch talent. I still feel that way today. I strongly support the Fillmore Music Hall in
18 Silver Spring which this legislation makes possible. My support is based on the many
19 ways that the Fillmore will benefit the local music scene as a vehicle and a venue for
20 local acts and artists. The lease between the Fillmore LiveNation and the County
21 provides the County with free use of the Fillmore six times a year all or some of which
22 can be performance dates for local bands and artists. An additional 30 days are
23 available at a discounted rate. Beyond these lease obligations, LiveNation is committed
24 to promoting local artists by using the local bands as warm up bands for the Fillmore's
25 national acts. LiveNation also will sponsor six to ten local talent nights a year featuring
26 local artists who LiveNation will use its resources to promote and showcase at the
27 Fillmore and beyond, thus exposing Montgomery talent to an international not local
28 outlet for its music. LiveNation will also make the Fillmore Music Hall available to local
29 organizations such as the AFI and the County school system for musical comedy,
30 dramatic or otherwise collaborative projects. And under discussion is the possibility of
31 LiveNation, excuse me, using the Fillmore for a live American Idol type of contest. Right
32 now, in order to perform in a live music hall, local bands must go to one of the venues in
33 Washington D. C., northern Virginia, or in Maryland outside of Montgomery County. At
34 the Silver Spring Fillmore, local artists can perform in front of local or regional audiences
35 in partnership with the world's largest live entertainment company, LiveNation, in a
36 venue named for its legendary San Francisco Fillmore where so many of today's music
37 icons first auditioned as local acts. Consequently, the Silver Spring Fillmore will give up
38 and coming acts a place to develop their dreams, to play, to get exposure, and to
39 hopefully get discovered. This, to me, represents our true plantings, our investment in
40 our future cultural generation. Thank you.

41
42 Council President Knapp,

43 Thank you very much. Ms. Schwiesow.



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1 Nancy Schwiesow,
2 You pronounced it almost right.

3
4 Council President Knapp,
5 Almost.

6
7 Nancy Schwiesow,
8 President Knapp and other Councilmembers. My name is Nancy Schwiesow, S-C-H-W-
9 I-E-S-O-W. I have a lot of practice at that. How many times have you heard we are still
10 not finished with Silver Spring? This is certainly true. My family, I'm speaking on behalf
11 of myself and my son and husband, have lived in close in Silver Spring since 1977. My
12 son had the courage to join my real estate practice four years ago. We represent the
13 neighborhood around downtown Silver Spring and I have represented and had my
14 practice there since '82. In the ghost years of Silver Spring, we were determined to see
15 it returned to a vibrant community. My husband, David, served on two of the former of
16 the County Executive's citizen's advisory committees for the revitalization process and
17 we have all actively supported its efforts and it has made a lot of progress. However, as
18 the commercial says, we've come a long way baby, but that's not enough. The arrival of
19 Discovery and AFI were a huge step forward in making Silver Spring's Arts and
20 Entertainment District a viable aspect of our fine community. They have been a critical
21 part of the revitalization that has greatly benefited our community and speaking as a
22 realtor, helped to increase the surrounding property values by 50%. However, we feel
23 that the proposed ZTA and SRA are, the amendment is critical and crucial, I'd rather
24 walk on coals than do this but this is really important to me, are crucial if we are to make
25 further progress in enhancing our Arts and Entertainment District. These zoning
26 changes are critical to the completion of the Fillmore which will give residents
27 throughout the area one more reason to come to Silver Spring and will contribute to our
28 community's growing reputation as a vibrant center for a wide variety of performing arts.
29 Construction of the Fillmore also will replace the current eyesore on Colesville Road
30 where J. C. Penney was located. We hope you will support this important goal of
31 enhancing our downtown area by passing the ZTA and SRA as it is proposed because it
32 is not just our downtown, it's the County's downtown. Thank you.

33
34 Council President Knapp,
35 Thank you. Mr. Stewart.

36
37 Brad Stewart,
38 Thank you Council President Knapp and the rest of the members of the Council. I
39 appreciate this opportunity to testify on behalf of the ZTA and the SRA that will enable
40 us to build the Fillmore. As the owner, quote, unquote, of a soon to open music venue in
41 downtown Silver Spring, I see the Fillmore as a crucial partner in the success of
42 Montgomery College's new Takoma Park Silver Spring Performing Arts Center. Here's
43 what it will do for us. Thousands of people will come to events at the Fillmore. They will
44 see what a cool place Silver Spring is and they will return to patronize other arts and



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1 entertainment venues like mine. The performing arts center will become known, as well
2 as the Fillmore, as one of the top notch performing arts centers on the east coast. This
3 will benefit all of our local restaurants, hotels, and other businesses like Jerry Miller's
4 Minuteman Press. Let's put it this way, it's become very unfortunate that this much
5 needed entertainment venue has gotten bogged down in all sorts of distractions. Is this
6 ZTA and SRA something out of the ordinary? Yeah. Should the taxpayers and the
7 County Council have gotten a better deal? Maybe. Could the whole thing have been
8 handled better? Probably. But the bottom line is this, you have an opportunity to
9 transform a burned out store front into a music venue that will draw hundreds or
10 thousands of people to downtown Silver Spring two, three, or four nights a week. How
11 can that be a bad thing? You know, sometimes the ends do justify the means.
12 Sometimes pragmatism has to trump process. Please vote for the ZTA and the SRA
13 that will enable us to build the Fillmore. Thank you.

14
15 Council President Knapp,
16 Thank you very much. Mr. Cohen.

17
18 Dan Cohen,
19 Thank you very much. We're at a crossroads in the redevelopment of downtown Silver
20 Spring, a crossroads where one direction will take Silver Spring on a road towards
21 smart growth and economic development or in the path of stagnation. The construction
22 of a music hall in downtown Silver Spring represents a tremendous opportunity for our
23 community. It will provide a critical economic shot in the arm and has the potential to
24 bring new business and commerce to a redeveloped downtown region. We're all aware
25 of the old Silver Spring, rundown buildings, empty shops, and few patrons. It took bold
26 steps by the County Council, the County leadership, and the business community to
27 create a plan to revitalize downtown district. Out of it came the Discovery Channel and
28 the shining star, the home of the AFI. The job is not done. Drive through Colesville Road
29 and you may not be aware that just one block over is a wonderful rebirth of shops and
30 restaurants. That is because a key section of Colesville Road that should be at the heart
31 of the development remains virtually untouched. A music hall at the J.C. Penney
32 building will provide an important spark for a new Colesville Road. The potential is
33 enormous. Imagine, an Art and Entertainment District anchored by the AFI and a music
34 hall. Local and nationally known entertainment groups, restaurants, and the finest in film
35 will have a huge potential to attract patrons from around the region making downtown
36 Silver Spring a key destination point for the metropolitan area. Over a year ago we put
37 together a website with an E petition soliciting support for a music hall at the J.C.
38 Penney building. What happened next surprised all of us. The response was
39 overwhelming. Within a short period we had accumulated more than 1100 emails and
40 signatures. This confirmed our goal, a music hall could be the cornerstone for the
41 economic growth of Silver Spring. Since the beginning this has been about economic
42 growth. The ZTA represents the right road for the County Government to take. The
43 future of Silver Spring and all that has been invested in it is dependent on this economic
44 shot in the arm. Thank you.



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1
2 Council President Knapp,
3 Thank you very much. Ms. Steinberg.

4
5 Laura Steinberg,
6 Good afternoon. I'm Laura Steinberg, a long time down County activist. My involvement
7 in Silver Spring dates back to the era of the Silver Spring Takoma Park Traffic Coalition
8 and having served on numerous advisory committees over the past 20 years as Co-
9 Chair of the Silver Spring Redevelopment Steering Committee out of which emerged
10 the downtown Silver Spring project, the AFI, relocation of Discovery, and the glimmer of
11 an idea to create an Arts and Entertainment District. I am also the immediate past
12 President and current Board member of Impact Silver Spring, an organization as most
13 of you know that works across lines of race and class to solve community problems. I'm
14 not going to speak to the merits of a live music venue. That was evident years ago and
15 fueled an early vision for Silver Spring's revitalization, a vision rooted in the community's
16 cultural diversity and desire to embrace and honor the varied backgrounds of everyone
17 who lives and works in Silver Spring. In the early discussion about an Arts and
18 Entertainment District excitement came not only from the likely economic benefits but
19 more importantly, knowing that the arts can bridge differences, reveal similarities, and
20 offer opportunities for relationships that might otherwise never occur. It is with a heavy
21 heart that I am here again today again, amidst yet another conflict in the continuing
22 planning saga of Silver Spring. There is no doubt that planning provides an important
23 measure of accountability meant to serve and protect the community. But I believe that
24 planning more art than science has to remain nimble. Absent agility, planning becomes
25 rigid and unyielding an academic pursuit out of touch with the people whose lives it
26 intends to improve. My biggest concern is that the Planning Board's rejection has less to
27 do with whether the proposal makes sense or if would serve and benefit the community
28 but more to do with perceived power, authority, and control. Once again it feels as
29 though Silver Spring is caught up in something bigger than itself, that other issues are
30 playing out on our watch. We have been a noble, social, and economic experiment on
31 view for all. We are known for wearing our heart on our sleeve, exposing our
32 vulnerabilities, and making us easy prey. However, in these tenuous economic and
33 social times, there's a limit to what we can endure and still remain strong. We are all
34 faced with an unprecedented and unusual set of circumstances. But ever the optimist, I
35 believe that with collective leadership, vision, and creative problem solving, you, the
36 community, the County Executive, Park and Planning, all of us will find our way to a
37 successful resolution. There is too much at stake, too much at risk, and too much
38 shared investment to jeopardize not doing so.

39
40 Council President Knapp,
41 Thank you very much. We have a couple questions. Councilmember Leventhal.

42
43 Councilmember Leventhal,



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1 I just wanted, well, I want to thank all the witnesses. I know all of you and I appreciate
2 your input. I just wanted to take a minute to heap praise on Marcus Johnson. A
3 musician like this, in many cases with this wide of an audience and with this kind of
4 talent, would have long ago decamped to Los Angeles or New York and we're really
5 fortunate to have a bandleader and extraordinary artist like Marcus Johnson here in this
6 area. It speaks well for the area that we're able to offer enough of an audience and
7 enough amenities and enough of an atmosphere that it remains, understanding that
8 Marcus grew up here, that it remains a – where can earn a living and find his audience
9 and travel to New York, Los Angeles, and Europe, and all the other places that he goes.
10 But, you've got an extraordinary civic spirit and that's demonstrated by your testimony
11 here today and the many other things that you do in the community. I'm an admirer of
12 yours and I'm glad to have the chance to say so publicly.

13
14 Council President Knapp,
15 Councilmember Ervin.

16
17 Councilmember Ervin,
18 Once again, George and I are playing tag team because I wanted to speak to Marcus
19 Johnson being here. I'm a great fan. I have a lot of your CDs and I really just want your
20 autograph. [laughter].

21
22 Council President Knapp,
23 Speaking of heart on sleeve.

24
25 Councilmember Ervin,
26 But thank you very much for being here. I want to follow up with my good friend Laura
27 Steinberg who I'm so pleased to see here at this dais. Laura you always have a way of
28 getting right to the heart of the matter. You have been a fighter for Silver Spring for a
29 very, very long time. We have been through a lot of these wars together. And so I really
30 appreciate you being here. I know for Nancy Schwiesow also, who is my neighbor, who
31 would rather walk on hot coals than to testify at the County Council, this is a
32 tremendous really good glimpse at this community that we call home, that we're so
33 proud to call home, that we're able to bring out these kinds of people who represent all
34 of us in our community. Thank you all very much for being here.

35
36 Council President Knapp,
37 Thank you very much. This concludes this panel. There are no more questions. Thank
38 you all very much for your advocacy and we will see you all back here in September.
39 Good afternoon ladies and gentlemen. This is a public hearing for Zoning Text
40 Amendment 08-14, Transit Mixed-use Zone (TMX) – Establishment, which would
41 establish a Transit Mixed-Use Zone and establish allowable land uses, development
42 standards, use of buildable transfer rights, and approval procedures for development
43 under the Transit Mixed-use Zone. There are three exhibits, a copy of the Zoning Text
44 Amendment 08-14 as introduced, copy of a resolution establishing the public hearing



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1 date and time, and proof of advertisement in the Montgomery County Sentinel. Persons
2 wishing to submit additional material for the Council's consideration should do so before
3 the close of business on September 3, 2008. A Planning Housing and Economic
4 Development Committee worksession is tentatively scheduled for September 8, 2008 at
5 2:00 p.m. Please call 240-777-7900 for information. Before beginning your presentation,
6 please state your name clearly for the record and spell any unusual names. Our first
7 speaker this afternoon is Tina Benjamin on behalf of the County Executive, Greg Russ
8 representing Montgomery County Planning Board, Bob Dalrymple representing --, Ann
9 Martin representing Parklawn Building Properties, and Barbara Hankins representing
10 League of Women Voters. Ms. Benjamin, you are our first speaker.

11
12 Tina Benjamin,
13 Thank you so much.

14
15 Jeff Zyontz,
16 If I may for two seconds Council President, if we can ask people who have testimony on
17 this issue to hand them up so we can distribute them to the Council.

18
19 Council President Knapp,
20 If you have testimony and you have not yet turned them in, just take them over to staff
21 and so it can be distributed to Councilmembers. Thank you. [multiple speakers]. Okay.
22 All right, go ahead Ms. Benjamin.

23
24 Tina Benjamin,
25 Great. Thank you. Good afternoon. For the record I'm Tina Benjamin. I'm Chief of Staff
26 of the County's Department of Economic Development. I'm here this afternoon testifying
27 on behalf of County Executive Isaiah Leggett to express his support for the proposed
28 Zoning Text Amendment and also to propose some changes for the District Council to
29 consider. The County Executive supports the mission of the TMX Zone to foster
30 moderate to intensive mixed-use development including housing in transit station
31 development areas and to look for creative ways to implement a Building Lot
32 Termination program. The Executive would like to suggest that the Council consider
33 changing certain provisions in Zoning Text Amendment 08-14. First off, increasing the
34 maximum dwelling unit density a residential FAR in proportion to any MPDU density
35 bonus provided on a site is a component of the ZTA that merits support. We
36 recommend that the Planning Board be authorized to approve additional height and
37 residential FAR to the extent needed to permit the development of required workforce
38 housing on any particular site. We want to thank Ms. Floreen for introducing a similar
39 measure. The Executive also supports the notion that allowable heights, densities, and
40 FAR be specified in the zoning ordinance and recommends that language in master
41 plans and sector plans which restrict development standards beyond the language of
42 the zoning ordinance not be permitted. Allowing master and sector plans to set lower
43 thresholds than what is allowed in the zoning ordinance may create a lack of uniformity
44 in the implementation of the Zone and may unnecessarily restrict the density of



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1 development especially affordable housing development in any given area. Since
2 master and sector plans are revisited every ten to twenty years, these restrictions may
3 prove to be an impediment to the development or redevelopment of any area. A
4 hallmark component of Zoning Text Amendment 08-14 is the introduction of the Building
5 Lot Termination program or the BLT program, an agricultural conservation concept
6 which the County Executive wholly endorses. The BLT program will reduce the number
7 of potential roofs in the Agricultural Reserve and be an additional step to ensuring that
8 the preservation of the County's preservation, of the County's precious Agricultural
9 Reserve. The Executive Branch and the Planning Board and the staff, and I'm sure that
10 the County Council will hear a slew of testimony following me about concerns about the
11 purchase of the BLTs that while the program in and of itself is a laudable one, adding a
12 requirement. Can I continue? Okay.

13
14 Council President Knapp,
15 We'll have some questions.

16
17 Tina Benjamin,
18 All right. That a requirement that the BLTs be purchased in order to achieve maximum
19 density will make this program difficult to achieve. So we've proposed two potential
20 scenarios and I know that the Planning Board in its session last Thursday proposed
21 some other things. One is to initiate the BLT program as a pilot program. The other
22 would be to have the BLT.

23
24 Council President Knapp,
25 I'm going to have questions for you in just a second.

26
27 Tina Benjamin,
28 Okay.

29
30 Council President Knapp,
31 So, you're going to get to tell us all those pieces right there.

32
33 Tina Benjamin,
34 Okay. You want me to stop? I'll stop.

35
36 Council President Knapp,
37 We'll come back to that. All right. Mr. Russ, representing the Planning Board.

38
39 Greg Russ,
40 Thank you Mr. President. For the record, Greg Russ from the Montgomery County
41 Planning Board. The Planning Board unanimously agreed at its July 24th meeting to,
42 forward recommended adjustments to the TMX Zone. The new Zone establishes
43 allowable land uses, development standards for the standard and optional methods of
44 development, transfer a density option, regulations for use of Building Lot Termination



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1 development rights, and an exemption for existing buildings and uses from
2 nonconforming use status. The idea is that the new Zone would replace the TOMX
3 Zone as the primary tool for development in the Twinbrook, White Flint, Germantown,
4 and other designated transit station development areas. The TMX Zone was carefully
5 reviewed by the Planning Board at two of its sessions. We heard from various members
6 of the development community and the land use bar. Many of the public comments
7 were related to the economics of specific redevelopment projects, issues of
8 grandfathering, and effects of prohibiting certain land uses. In light of the findings of the
9 pro forma analysis prepared by our staff and in light of the testimony and input provided
10 by the public, the Board recommends certain adjustments to the TMX Zone which
11 include exemption of residential development from the BLT requirement where the
12 workforce housing requirement applies, increasing the maximum optional method
13 density from three to four, allowing a development under a development plan approved
14 for the TSR and TSM Zones to remain valid, and construction to proceed subject to
15 applicable approvals, and allow development under a preliminary plan to remain valid
16 and construction to proceed subject to applicable approvals. The Board also
17 recommends that the TMX Zone be revised to clarify that the cost of a BLT payment to
18 the Agricultural Land Preservation Fund be set annually by regulation. I'll be happy to
19 answer any questions you may have.

20
21 Council President Knapp,
22 Thank you very much. Mr. Dalrymple.

23
24 Bob Dalrymple,
25 Before you start the clock on me, I was going to make a request. I thought I was going
26 to be having two slots because I'm here for two different properties but the Parklawn
27 Building properties, the owner Mordy Schron has also signed up and I was wondering if
28 we could bring him up and then my testimony could roll directly into Ann Martin's which
29 could roll directly into Mordy Schron's. Is that? We're all signed up. It's just a matter of
30 just bringing them to the table at this point. Or we can have them speak later.
31 Whichever you want.

32
33 Council President Knapp,
34 Let me turn.

35
36 Bob Dalrymple,
37 The three minutes that we've.

38
39 Council President Knapp,
40 Let me turn to Ms. Hankins and you guys can get coordinated. How's that?

41
42 Bob Dalrymple,
43 Okay.



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1 Council President Knapp,
2 Ms. Hankins.

3
4 Barbara Hankins,
5 Good afternoon. I'm Barbara Hankins, the second Vice-President of the League of
6 Women Voters of Montgomery County. Thank you all very much for allowing us to
7 speak. For many years the League of Women Voters of Montgomery County has been
8 a steadfast supporter of the Agricultural Reserve and policies aimed at preserving the
9 County's agricultural land. We've actively supported the TDR program during this
10 decade and are pleased to see approaches to expand beyond the residential use of
11 TDRs. In the ZTA 08-14 the League supports the use of buildable TDRs for
12 nonresidential developments in the vicinity of transit stations. We'd like to see this use
13 actually expanded into other Zones such as the CBD. Requiring the use of these TDRs
14 for residential density increase in the Mixed-use Transit Zone is consistent with our
15 consensus position. Affordability of the BLT program has been a major concern of the
16 League members as we discuss this approach to agricultural land preservation. The Ad
17 Hoc Agriculture Policy Working Group recommended both a public and a private
18 component to funding the program. The public component would allow the County to
19 repurchase and retire the BLT while the private component would be a market driven
20 system such as the current TDR program. Utilizing both of these approaches may result
21 in a viable program. As regulations for implementing the BLT program are developed
22 sufficient flexibility must be incorporated to make this approach affordable both for
23 public and for private funding. We recognize the need to make the use of the BLT or
24 buildable TDR attractive to developers. Have ways of reducing some of the
25 development been consistent? Have they been considered even though 12 and a half
26 percent of the density gain requires the use of these TDRs? We trust that this utilization
27 will significantly reduce residential development in the Agricultural Reserve.

28
29 Council President Knapp,
30 Thank you very much. Mr. Schron.

31
32 Bob Dalrymple,
33 No, you got it wrong.

34
35 Council President Knapp,
36 You guys are supposed to get it coordinated.

37
38 Bob Dalrymple,
39 It's my turn.

40
41 Council President Knapp,
42 I don't care which, all right. We had you up first. Mr. Dalrymple.

43
44 Bob Dalrymple,



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1 Thank you. Bob Dalrymple Linnowes and Blocher. I'm going to speak about the –
2 Development property in Germantown which is 12.8 acres west of 270, east of Century
3 Boulevard, adjacent to the I-270 Maryland 118 ramp. I've given written testimony so
4 everything I'm going to be saying is already in print here. The property is zoned I-3. It's
5 recommended in the draft master plan that's before the Planning Board right now for a
6 new transit station zoning which is before you today. I gave testimony last night to the
7 Planning Board on the master plan. My testimony today is similar which is that while we
8 share the vision for transit oriented development in Germantown, it is dependent upon
9 the CCT being in place. We're a ways off from that yet. Our simple testimony here today
10 is that it's premature to be implementing the tools for transit oriented development until
11 the transit piece is in place. That's, in a nutshell, our position on this that relates to the
12 BLTs proposal as well. BLTs, the economic viability of that. We can't evaluate until the
13 value of the land is realizing the availability of transit and at that point in time we will be
14 able to make economic decisions as to whether the BLT program is supportable or not
15 supportable in Germantown. To the extent that you move forward with this, we do have
16 technical comments which is in my written testimony relating to building height and
17 density. Rolling into Twinbrook on behalf of Somerset Development, the Parklawn
18 Building and the properties and we've talked to you a little bit about that already, as
19 applied to the unique circumstances of those properties, the new Zone with the BLTs as
20 part of it simply is not economically doable. In isolation, the BLTs perhaps are
21 sustainable but in conjunction with all of the other regulatory costs, it simply is not
22 doable and puts this property at a competitive disadvantage to try to maintain GSA as a
23 tenant. And we'd be happy to get into the details of that with you. Ann.

24
25 Ann Martin,

26 Thank you. For the record Ann Martin for the law firm of Linnowes and Blocher, also
27 representing the Parklawn Building properties, -- Lane L.L.C., 22 acres in the Twinbrook
28 planning area. And it is hard to separate the TMX Zone from Twinbrook because per
29 your instructions at the May 20th hearing on the TOMX I TDR Zone, we were to come
30 back with the Planning Board with something that worked, flexibility, they wanted to
31 address your BLT concerns. We are happy to say that the density recommendations in
32 the June plan do work for the properties, but now the zoning component still doesn't
33 work. The TMX Zone was applied to all of our properties and as Mr. Dalrymple
34 mentioned, the economics don't work. We have Len Bograd out here from RCL Co, who
35 did our economic analysis and we'll be happy to answer questions as far as the
36 summary of the findings which we've reviewed with Park and Planning staff. But the
37 BLT component in and of itself may not cause an insurmountable burden, but there's
38 already, it's already financially infeasible because of the existing burdens. We do have a
39 unique situation. There's a 1.3 million square foot building that we can't ignore that
40 either needs to be filled with the GSA or rehabilitated for the GSA or if they leave, which
41 is the situation which I don't think anyone in this room wants, we would have to backfill
42 that significant building. The two parking lot properties which are about 13 to 14 acres of
43 surface parking lots, which I think we'd all be encouraged to redevelop, we need to have
44 the opportunities to do that. The densities recommended there, we have the flexibility



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1 now in the plan, a few minor tweaks, but we need the Zone. We're agnostic as to the
2 Zone. The TMX Zone without the BLTs would most likely work. It's a mixed-use zone
3 with optional and standard method development but the density, any extra density won't
4 offset the burdens that are in with the BLTs. Other planning areas you may be able to
5 offset the burdens with additional density. It may be appropriate in other planning areas
6 but it doesn't work for the Parklawn properties. We'd be fine with the zone that was
7 proposed before, the TOMX II Zone that was proposed before in the planning area. I
8 don't know if I've gone over my three minutes. I do want to leave time for Mr. Schron
9 who is.

10
11 Marty Schron,

12 Thank you Council for making the accommodation. My name is Marty Schron. My
13 family, myself, we own the Parklawn Building, it's a very substantial investment for us.
14 We are happy to invest in the Montgomery County area. The SFO has come out for the
15 GSA looking for space to move out of the building but to stay in the building, I could
16 update everybody on the status of that. That's not the nature of the hearing right now.
17 To retain the GSA and to properly respond to the SFO, we obviously are going to have
18 to invest probably in the neighborhood of \$100 million to renovate the skin of the
19 building, put on a new facade, glass protection, blast proof, and accommodate the
20 interior space to the way the SFO specifies. So, being said that, we are looking to make
21 a large investment in the area and we need, you know, the land is there also to help
22 offset as part of the entire picture of how we're going to do the economics of this
23 building. The new zone does benefit us and does make the whole project a viable
24 project. The BLTs on the other hand do hinder the ability to get the proper financing and
25 to put the values that we would need to properly respond to the GSA to putting the
26 renovations to the building and make the entire package of building the parking lot, of
27 the new facade as, you know, economically viable as Len Bograd from RCL Co has put
28 into our report. You know, I would be happy to engage with any of the Councilmen in
29 further discussion of the SFO, of the GSA, of what we are doing in detail. And thank you
30 very much.

31
32 Council President Knapp,

33 Thank you very much. A couple questions. Councilmember Floreen.

34
35 Councilmember Floreen,

36 Thank you. Ms. Benjamin, my question for you is the County Executive and your
37 department looking into other ways to help us purchase BLTs?

38
39 Tina Benjamin,

40 Not at the current time.

41
42 Councilmember Floreen,

43 Yeah. It would be good if you could.



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1 Tina Benjamin,
2 We'll look into that.

3
4 Councilmember Floreen,
5 Put that on your list. We have some folks here working on that issue but the real
6 question is how do you create a market, how do you find the resources to fund Mr.
7 Clifford's big idea which was to preserve this land in agriculture forever. And Mr. Russ.

8
9 Council President Knapp,
10 Keep going.

11
12 Councilmember Floreen,
13 Snack time. Mr. Russ, when we took this up a while back, we did ask that you all look at
14 some pro formas. I guess Mr. Bogart, Bograd has done this for the Parklawn people but
15 have you looked at some balance sheets that would show that the Planning Board's
16 proposal is financially doable given whatever else may be, what we know at least under
17 current standards is typically required of these projects.

18
19 Greg Russ,
20 Yes. Actually we have Jacob -- who is with our research department who actually
21 worked on pro forma from the Planning Board perspective. He is here.

22
23 Councilmember Floreen,
24 Well.

25
26 Greg Russ,
27 He can speak.

28
29 Councilmember Floreen,
30 I don't think this is the time to go into that.

31
32 Greg Russ,
33 But yes, the answer is yes we have.

34
35 Councilmember Floreen,
36 When we take this up, we would sure like to see sort of the dueling assumptions here
37 so we understood what is actually feasible. There are, we appreciate the fact, we have
38 added on, currently there are significant numbers of costs to put a spade in the ground
39 and to understand how we make these sorts of things happen. It is really important that
40 we have the best information and also the suggestions as to how to overcome those
41 problems. I mean we're really committed to trying to find a market for the BLTs. The real
42 question is what is impinging their use and are there other things that we should
43 examine as a way to encourage or make it easier for this to be part of the equation
44 under this circumstance. So we'd, at least I'd invite your advice as to that and if you



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1 could share what information you are comfortable sharing with Mr. Zyontz, that would
2 be very helpful and then we'll look at it when we get to it.

3
4 Bob Dalrymple,
5 If I could just briefly respond to that Ms. Floreen. As to the Parklawn buildings, and
6 again, the circumstances are a little bit unique as to that one.

7
8 Councilmember Floreen,
9 Yeah.

10
11 Bob Dalrymple,
12 But one of the things that we looked at is, is density the answer to this? Can you solve
13 this by throwing more density at the situation? The problem is when you're considering
14 more density, you also have to consider the absorption. Can the area sustain that
15 additional density? The level of density that it would take at least as to the Parklawn
16 buildings, not even I would come to you asking for.

17
18 Councilmember Floreen,
19 Not even you.

20
21 Bob Dalrymple,
22 Not even me.

23
24 Council President Knapp,
25 Wow.

26
27 Councilmember Floreen,
28 Whoa. That's a lot of density.

29
30 Bob Dalrymple,
31 But we would be happy to share that information and I'm assuming in worksession.

32
33 Councilmember Floreen,
34 I'm sure you would. But, and if there are other things.

35
36 Bob Dalrymple,
37 Sure.

38
39 Councilmember Floreen,
40 That should be put on the table.

41
42 Bob Dalrymple,
43 Sure.



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1 Councilmember Floreen,
2 That would be helpful as well because we really are looking for the right market and the
3 right mechanism to ensure that we can really get these lifted from the property and as
4 long as they are there, it really doesn't quite resolve the agricultural preserve protection
5 initiative that we've spent what is it, 25, 30 years on.

6
7 Bob Dalrymple,
8 And I think that you're going to find with each policy area it is a different discussion.

9
10 Councilmember Floreen,
11 Yeah, yeah, it may well be and perhaps the League has some ideas as well. All right.
12 And the League pointed this kind of thing out in their testimony. That's very, very helpful.
13 Thank you.

14
15 Council President Knapp,
16 All right. Thank you. Ms. Benjamin, just wanted to follow up on the BLT piece as well.
17 On the second page you identified that the two concepts, one of which you started to
18 describe, which was the notion of creating a pilot program and then you had the second
19 piece which I.

20
21 Tina Benjamin,
22 Well, the second would be to treat the BLTs as a bonus on top of the maximum. So I
23 guess the easy way to describe it is it would be like the cherry on top of the cake. So it
24 wouldn't be a requirement but more an incentive.

25
26 Council President Knapp,
27 And has, do you have, have you guys done any fiscal analysis.

28
29 Tina Benjamin,
30 No, we have not.

31
32 Council President Knapp,
33 To see what that would look like potentially?

34
35 Tina Benjamin,
36 No.

37
38 Council President Knapp,
39 Are you, it would be helpful.

40
41 Tina Benjamin,
42 Okay.

43
44 Council President Knapp,



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1 It would be helpful to the extent that when we get to this in September that we start to
2 have some of that. That would be, also, are we not waiting for some regulations as it
3 relates to the BLT program from the Executive Branch so we can actually have a
4 program to be looking at?

5
6 Tina Benjamin,
7 That's my understanding as well.

8
9 Council President Knapp,
10 Okay. And so do we expect to see that.

11
12 Tina Benjamin,
13 Are they, the regulations are before the Board on [indiscernible multiple speakers]. To
14 be.

15
16 Council President Knapp,
17 So we have.

18
19 Tina Benjamin,
20 Okay.

21
22 Council President Knapp,
23 So we have some, we are waiting for comments.

24
25 Tina Benjamin,
26 Yes.

27
28 Council President Knapp,
29 From the Planning Board on one piece but then we also have some regulations that are
30 coming from the Executive Branch.

31
32 Tina Benjamin,
33 That's correct.

34
35 Council President Knapp,
36 Those all need to dovetail at roughly the same time.

37
38 Tina Benjamin,
39 They all need to work together.

40
41 Council President Knapp,
42 Okay.

43
44 Tina Benjamin,



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1 Along with.

2
3 Council President Knapp,
4 So we're going to have.

5
6 Tina Benjamin,
7 The Zone and some master plans that, yes. You're correct.

8
9 Council President Knapp,
10 So we're going to have a busy August.

11
12 Tina Benjamin,
13 Yes.

14
15 Council President Knapp,
16 Okay. Good. I look forward to that. And I appreciate the comments as it relates to the
17 Parklawn building. And we actually had a discussion around that this morning. We had
18 a meeting with our legislative liaison for both the state and federal government as to
19 how do we begin to communicate better with GSA to share the concerns that we may
20 have with the SFO that has been issued and so that everyone on this side of the dais is
21 aware and concerned and wants to work to try and make sure that we can retain those
22 3,000 plus jobs that are currently in Montgomery County, in Montgomery County. And
23 so we look forward to working with you on that as well. Councilmember Elrich.

24
25 Councilmember Elrich,
26 One thing I would like is a discussion piece when we come back into worksession is for
27 Park and Planning to talk about what the implications are if the jobs do go away.
28 Because it seems to me it has implications for how the rest of the proposed sector plan
29 plays out because it will certainly have, you know, if you redevelop that building, for
30 example, as housing, it has implications on what anything else would be, would come
31 on the market for housing, if it's redeveloped for office has implications for your other
32 office sites in the area. And so I wonder if you guys had given some thought to how
33 these things play together. I would just say to Ms. Benjamin that I'm still very skeptical
34 about the bonuses for workforce housing and your latest cherry on top. I mean, it seems
35 to me that you're going to render master plans absolutely meaningless for communities.
36 And I really am not sure that's the best way to go about this. I think that, you know,
37 when developers buy a piece of land and they know that it's got an MPDU requirement,
38 and a workforce housing requirement, they ought to pay what the land is worth given
39 what the requirements are on it rather than paying what the land is worth as if there
40 were no requirements and then saying I paid too much for this land, you must give me a
41 density bonus to do these other things. I think that we are on a collision course with
42 people who think the master plans mean something and you will render them
43 meaningless.



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1 Council President Knapp,

2 Okay. We have no further comments for this panel. Thank you very much. Our second
3 panel includes Pam Lindstrom representing the Sierra Club, Derick Berlage
4 representing Lee Barnes, Bill Kominers representing Naples Commercial, Dolores
5 Milmoie representing Audubon Natural Society, and Jody Kline representing Lake
6 Waverly Associates. Ms. Lindstrom, you are our first speaker. Thank you.

7
8 Pam Lindstrom,

9 The Sierra Club is basically happy to see this Zoning Text Amendment. It will shape
10 how well we reach two of our fondest goals for the County, building compact mixed-use,
11 even beloved urban centers at our transit stations, and preserving the Agricultural
12 Reserve. The underlying proposal for regulating development in the TMX is good. It is
13 precise where it needs to be precise and flexible where flexibility is needed. It rightly
14 leaves exact limits on various parameters including building height to the local master
15 plans, the individual master plans. There are of course a couple of problems that I call
16 your attention to. One is that this ZTA states that the TMX Zone can be applied in a,
17 quote, transit station development area which is defined in the zoning ordinance as any
18 area where a current or planned transit station. Such a definition invites abuse starting
19 with the draft Germantown master plan. The solution is to change the definition of a
20 transit station development area to one that has current transit or transit that's budgeted
21 for construction. Two, the list of uses should, allowed should be expanded. More uses
22 on the borderline between retail and Industrial service should be permitted. They exist
23 already usefully at Twinbrook today, electrical suppliers, plumbers, printers, bakeries,
24 caterers, et cetera. It seems that they would have less impact, less negative impact than
25 the technology industry that are already permitted in the TOMX. The BLT proposal is
26 also good. The staff analysis that I have read, I really appreciated. Certainly more of it is
27 needed to keep up the good work. We share the goal of making transit station
28 development financially feasible and I suggest that as a start for ideas as to how to
29 make it feasible despite the BLTs, that you think about adopting the Arlington parking
30 requirement which I think you would find would save more money than the BLTs would
31 cost.

32
33 Council President Knapp,

34 Thank you very much. Mr. Berlage.

35
36 Derick Berlage,

37 Good afternoon. Derick Berlage, representing Lee Barnes who is working with a number
38 of property owners at Nicholson Court and would like to be part of the beautiful new
39 White Flint that we're going to build. Other folks have talked about the numbers issue. I
40 would like to talk for a few minutes about the policy issue of the requirement for BLTs.
41 No one is here to criticize the idea of creating a Building Lot Termination program.
42 Clearly we need that. Clearly it is critical to the future of the Agricultural Reserve. But if
43 you're going to buy up building rights, someone has to pay for them. So what's really
44 before the Council is a funding decision. The ZTA is in essence a funding plan wrapped



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1 up as a Zoning Text Amendment that says the way to raise the money to buy these
2 building lot rights from the Ag Reserve is to place, in essence, a tax on those
3 landowners and developers who want to build in White Flint, Twinbrook and other Metro
4 Station areas. With all due respect, we think that is a very poor policy choice for raising
5 the funding for what is otherwise a good program. It's a poor choice because the tax
6 base, if you will, is too narrow. You're raising money for general public good, the Ag
7 Reserve but putting the burden on a select group of property owners in particular parts
8 of the country. Probably even more troubling is that you're going to discourage the very
9 type of smart growth that we most want to see happen in Montgomery County. Third,
10 there's really no logic to it. Contrast this with a school impact tax. Development creates
11 the need for new schools, new tax development to pay for the schools. But development
12 in White Flint and Twinbrook doesn't add pressure to the Ag Reserve. In fact, it does
13 exactly the opposite. It relieves pressure on the Ag Reserve so you're asking
14 development which actually helps our agricultural policies to pay a tax, a burden, that as
15 you heard from other speakers, they have great difficulty sustaining. Let's find another
16 way to fund it. This is not, this is not the way to go in our view. Thank you.

17
18 Council President Knapp,
19 Mr. Kominers.

20
21 William Kominers,
22 Good afternoon President Knapp and members of the Council. My name is William
23 Kominers. I'm an attorney with Holland and Knight in Bethesda. I represent the owner of
24 the Nolan Plumbing property at the northeast corner of Nicholson Lane and the new
25 Citadel Avenue. The right-of-way for Citadel Avenue was dedicated by my client
26 pursuant to their approved preliminary plan. I'm here today to speak about the TMX
27 Zone on the issue of grandfathering. As noted in the staff memo the Planning Board
28 now recommends grandfathering properties that have received preliminary plan
29 approval and those with approved development plans under the TSR and TSM Zones.
30 We agree that those properties should be grandfathered. In the case of the preliminary
31 plan and the development plan, the parameters of the project in terms of the height,
32 bulk, use, type, massing, and external impacts have been established and evaluated by
33 both the applicant and the County. We believe that projects with those approvals have
34 progressed to a point where the economic parameters of the project have been
35 established, the character of the project both physical and quantitative has generally
36 been established, and the external impacts in terms of adequate public facilities have
37 been established. Projects with these approvals should be taken as a given when
38 evaluating the character and appropriateness of the TMX Zone and its application to an
39 area. This is particularly apt in the White Flint sector plan area. There rezonings to the
40 TSM Zone require a development plan approval. For a Euclidian Zoned project such as
41 the Nolan property, preliminary plan approval has allowed dedication of the necessary
42 right-of-way for the extension of Citadel Avenue well before the project has been built.
43 These approvals should be protected. They are consistent with the zoning and planning
44 for the White Flint area today and at the same time tend to reflect the physical direction



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1 and density of this plan for tomorrow. We suggest one clarification to the Planning
2 Board's recommendation on grandfathering. Item three under the Board's new list
3 allows development above the development plan limit to occur if it follows the standard
4 of the TMX Zone. Item four, which affects preliminary plans should have a similar
5 provision. In other words, development above the limit of an approved preliminary plan
6 should also be able to occur if that additional portion follows the standards of the TMX
7 Zone and obviously provided that any additional APF impacts are addressed. In the
8 past when making legislative decisions the Council has been cognizant of projects that
9 have progressed partially through the development approval process. You have often
10 established these same decision points, development plan, preliminary plan, and site
11 plan as the points of time in which a development proposal should be protected against
12 changes. We submit these points are also appropriate with respect to the TMX Zone.
13 Thank you for your consideration. Look forward to answering any questions.
14

15 Council President Knapp,
16 Thank you very much. Ms. Milmoe.
17

18 Dolores Milmoe,
19 Sorry. Good afternoon. I'm Dolores Milmoe from the Audubon Naturalist Society and we
20 endorse this ZTA and I would remind you that in your packet yesterday, I believe, came
21 in a letter from the, signed by most of the members of your Ad Hoc Agricultural Policy
22 Working Group which reminds you that they work very hard, the stakeholders on that
23 group for over a year I believe, and the one issue on which they could all agree was that
24 there needed to be a mechanism to extinguish that fit buildable lot. And Mr. Clifford, as
25 Ms. Floreen mentioned, receives a great deal of credit from us for originating this idea. I
26 understand that the devil is in the details, but I also think that the concept is such a good
27 one that it should be pursued and I want to submit for the record, in 2007 Smart Growth
28 Alliance produced a 16 page brochure on what they call their regional conservation
29 priorities. The Ag Reserve is one of six that they chose to outline, to emphasize. One of,
30 some of the others were the National Mall, -- water shed, and Four Mile Run in Virginia.
31 But they endorsed the principal, they recognized that few people understand what the
32 TDR program that that fit buildable TDR is still out there. And they feel that they
33 recognize this program is one of the region's conservation priorities. And finally, the
34 Coalition for Smarter Growth has sent in testimony today endorsing the ZTA and
35 basically Audubon endorses their testimony having worked with them on it. And we
36 actually want to say that we trust the Council to establish the right balance between
37 granting higher density and the second key here is to reduce parking requirements. Our
38 research shows that structured parking spaces cost \$30 to \$40,000 per space.
39 Reduction in just several, you know, not a lot but a few parking spaces could actually
40 extinguish a BLT. So we're hoping that with the developers, there can be some formula
41 worked out that makes it palatable. Also we feel that we should also look into not just
42 the private subsidy of BLTs through developer dollars but also the public subsidy. Thank
43 you.
44



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1 Council President Knapp,
2 Thank you very much. Mr. Kline.

3
4 Jody Kline,

5 Good afternoon. Jody Kline. I'm an attorney with the law firm of – and Camby and as
6 your agenda shows, I represent Lake Waverly Associates. But I'm not really going to
7 talk about that property although it is in the Nicholson Lane area. I'm going to try and
8 sort of act as the bridge between Mr. Berlage's articulate policy dilemma for you and
9 some of the testimony you've heard already about what happened at the Planning
10 Board last week. ZTA 08-14 has got sort of three elements as part of it. One is a
11 workable BLT program. Two is trying to create a Zone that can have almost universal
12 application across the County. And three, a technique to stimulate growth in a number
13 of areas where we're trying to target growth, you've heard Germantown, Twinbrook, and
14 most particularly White Flint. And that's what I wanted to stress. No doubt about it,
15 White Flint has the potential to be the ultimate mixed-use transit oriented development
16 in all of Montgomery County as long as we create a framework to enable it or for
17 purposes of our discussion today, don't slow it down with things that would inhibit its
18 ultimate development. That's really what we're trying to tell you the BLT does. The
19 testimony at the Planning Board hearing the other day had the quaint phrase of the
20 parfait and the parfait was the description of the layering of the different incremental
21 exactions that occur, the normal dedication requirements, the streetscape requirements,
22 the impact tax, the affordable housing. When you plop the BLT on top, that's what
23 breaks the back of the camel and there is empirical evidence that demonstrates that. As
24 Mr. Russ pointed out we were able to make the point on the residential side of it and
25 there will be dueling economists between now and your worksession and your phrase
26 was very appropriate Ms. Floreen, although in sort of respect to Mr. Cesker at Park and
27 Planning Commission, I have a feeling it is not dueling, I think it is going to be
28 professionals working together to try and identify whether the BLT is doable in the Zone
29 that we're talking about and that's really what we're trying to do. The solution of how you
30 try and get all three of those goals achieved is, from our point of view, from White Flint,
31 you do not want to take the risk of impeding the development potential of that very
32 important mixed-use node. So you can adopt the TMX Zone if you want to do so the
33 way it is set up. You can include the BLT in there if you want to do so. Just don't map it.
34 Just don't apply it at White Flint. Thank you.

35
36 Council President Knapp,
37 Thank you very much. Couple questions from Councilmembers first. Councilmember
38 Leventhal under whose leadership we formulated the Ad Hoc Agricultural Group.

39
40 Councilmember Leventhal,

41 Thanks Mr. President. Derick, you assert that the development of, the transit oriented
42 development alleviates pressure in the Ag Reserve. Do you have a basis for that other
43 than just intuition that a unit is either built here or that it's built there because you could
44 make a counterargument that someone who is going to buy a multi-acre estate, you



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1 know, between Poolesville and Monocacy, is not the very same person who would buy
2 a unit right on top of White Flint and Metro and that the two are not really all that
3 equivalent.

4
5 Derick Berlage,

6 Well I think planners, demographers, and even real estate marketing people would all
7 tell you that there is a growing desire on the part of many people and businesses to
8 locate in places where they are less dependent on the automobile for all the obvious
9 reasons, traffic, the cost of gas, and so forth. So, as a County, to take advantage of that
10 trend, we want to create as many communities as we can that are transit oriented, that
11 are mixed use, and in the process of doing that, a higher proportion of folks, yes I
12 believe, will move into those communities as opposed to moving out into the Agricultural
13 Reserve. Now, it is a continuum, you know, perhaps those who would live in the Ag
14 Reserve come in a little closer and those who would have lived in the traditional suburbs
15 make the trip or the, you know, the lifestyle choice all the way into the town center. But,
16 yes, I think the evidence is that these kinds of communities reduce the pressure on
17 development in the Ag Reserve.

18
19 Councilmember Leventhal,

20 Well, but what we're talking about with respect to development in the Ag Reserve is not
21 a classic subdivision. We're not talking about building hundreds of acres of townhouses.

22
23 Derick Berlage,

24 You're correct.

25
26 Councilmember Leventhal,

27 So I follow your point but I'm just not necessarily persuaded. If you're talking about
28 extinguishing the last TDR, you would be talking about, as I say, a big estate, you know,
29 acres and acres and acres of land. We're not talking about something that competes on
30 a unit per unit basis. We are not, under any circumstances, whether or not we get the
31 BLT program up and running, we're not talking about huge new subdivisions with lots
32 and lots of units in the RDT Zone. That's not going to happen. So again, I'm not entirely
33 sure that it really does compete. What, you know, the urban pioneers who want to live at
34 Metro in a mixed-use development are probably not the same people, I think, who
35 would otherwise be extinguishing that last TDR in rural Zones.

36
37 Derick Berlage,

38 Well, I think, I stand by my words the more critical point is Mr. Kline's, is that we need to
39 create the new White Flint, the new Twinbrook to absorb the jobs and the residents that
40 we know are coming to this County. If the BLT program is, as the folks will show, the
41 straw that breaks the camel's back, what you'll get.

42
43 Councilmember Leventhal,

44 Yeah.



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Derick Berlage,

In answer to one of the questions Mr. Elrich asked, you know, why can't you just write down the value of the land to accommodate the cost of the BLT? Well, the problem is all of this land in Twinbrook and White Flint is already.

Councilmember Leventhal,
Right.

Derick Berlage,
Worth money. It is already developed. It already has a revenue stream and people will simply say we are not going to redevelop. We are going to leave things as they are because the cost of redevelopment is too high. And that is not in the County's interest.

Councilmember Leventhal,
Yeah. I agree with the benefit of transit oriented development. I'm just, I wanted to know if you had an empirical basis for, you know, making that one to one relationship and so, but here is my next question now. So, and I'm trying to understand exactly how ZTA 08-14 works, but if additional density were allowed in return for buying the BLTs, you don't think that would make it worthwhile? You still, now I'm talking to Jody as well as to you, you still think that would smash the parfait?

Derick Berlage,
Well, that was Tina Benjamin's suggestion.

Councilmember Leventhal,
Right.

Derick Berlage,
And I think it is, though it's not our first choice, that is certainly a better approach than what you see in the ZTA today. What you see in the ZTA today, is that the base density is somewhere between 0.25 and 0.5. Now no one would think that that's the right density for land close to a Metro Station. So clearly, what the ZTA is doing is underzoning all of the land so as to force the developers to then go buy the BLTs to get the zoning back to where it probably should have been in the first place and we don't think that's a sound policy.

Councilmember Leventhal,
Okay, so the last question is an obvious one for you and for Jody, so if we didn't pay for BLTs this way, what other options are there? How are we going to pay for the BLTs?

Jody Kline,
We all, we agree that we should all be working to try and figure out some other programs. It may work in other Zones, we just don't think it works in White Flint. But we



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1 should be, along with the Department of Economic Development, trying to find other
2 programs to make it work as well.

3
4 Derick Berlage,
5 And, you know, believe me, I know what the budget decisions are like but to start a
6 small pilot program out of general revenues that could build over time does not strike
7 me as a crazy idea for something that's so important to the general welfare of the
8 County.

9
10 Councilmember Leventhal,
11 What do you think about using ALARF funds?

12
13 Derick Berlage,
14 Well, ALARF has to be paid back. So they would still need to be a source of funds at
15 some point to restore that.

16
17 Councilmember Leventhal,
18 Well, the PHED Committee talked recently about using, I mean, ALARF is for the
19 purpose of open space preservation, and if parkland is acquired it doesn't have to be
20 paid back.

21
22 Derick Berlage,
23 I think it is well worth exploring use of ALARF. Absolutely.

24
25 Council President Knapp,
26 Councilmember Elrich.

27
28 Councilmember Elrich,
29 I would ask Ms. Lindstrom to provide the Committee information on the parking
30 requirements. I think that's, we need a fuller discussion on that because I think you're
31 heading in the right direction on that.

32
33 Pam Lindstrom,
34 It is not just parking requirements. I have a general feeling, impression that the
35 development review process in Arlington is simpler and therefore cheaper as well. So I
36 want to, maybe Mr. Elrich is less keen on that but I'm going to explore that one too.

37
38 Councilmember Elrich,
39 I mean, simpler and cheaper is fine. I'm laughing because Park and Planning's going
40 through a reevaluation of their zoning process and the Zones now which they say will
41 take three years. I hardly think they are going to [inaudible] and simply adopt Arlington
42 or anybody else's zoning process and say this is going to be our zoning process. I think
43 moving in that direction is the right thing. I just don't think it is going to be as simple as



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1 look what they are doing and we should do it. I mean that's, Park and Planning's not
2 prepared to do that nor would the Council be.

3
4 Pam Lindstrom,
5 If it is simpler and cheaper and it turns out a good product.

6
7 Councilmember Elrich,
8 Yeah.

9
10 Pam Lindstrom,
11 I think it is worth looking at.

12
13 Councilmember Elrich,
14 I'm sure they'll look at it. My concern about both what Derick and Jody said, is that if it
15 doesn't work here, where in a lot of cases you have got relatively low densities, and
16 land which has been owned in some cases for a very long time is going to get a
17 substantial bump up in density, how the heck is it going to work in places that are
18 already fully developed where you're talking about, you know, already existing, fairly
19 dense, not, you know, not sprawling shopping centers. I mean, if it doesn't work there,
20 where does it work?

21
22 Jody Kline,
23 Well, there, just by way of comparison, I didn't get a chance to get to the hearing last
24 night on Germantown but I know there are some sites that have vacant land. In the case
25 of our client, Lake Waverly Associates, we have got two multistory office buildings there,
26 we're currently Zoned C-2, we're recommended for TSM, so we've got 2 point, 1.5 and
27 2.5 FAR. There is no incentive to give that up to go back and build up to do something
28 more intense than that. And that's, you're going to hear from some of the other folks
29 after, that was one of the deficiencies in the TSM Zone. There was not enough incentive
30 to drive people to redevelop. There are probably places in the County, interesting
31 enough, where the BLT and the TMX Zone can work better than it would in White Flint,
32 at least where there are developed properties.

33
34 Councilmember Elrich,
35 I look forward to seeing what the White Flint master plan looks like. I'll say that with the
36 current transportation system in Montgomery County, I remain skeptical of calling any
37 spot, particularly a spot like that, as a smart growth area. Because you've only got a rail
38 system that takes you to a couple places north and you work in D.C. and for all other
39 movements where people might live and work in Montgomery County, we don't have a
40 way of getting you there.

41
42 Council President Knapp,
43 Councilmember Floreen.



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1 Councilmember Floreen,
2 Thank you. Derick, I don't know if we have your comments in written form. Maybe we do
3 here.

4
5 Derick Berlage,
6 I apologize. They were extemporaneous but I would be happy to put them in writing.

7
8 Councilmember Floreen,
9 I thought so. I think you make a good point. It really is a tax and, or exaction, however
10 you want to define it based on, because that's what you have in front of you, land and
11 you have an opportunity to achieve a couple of things. I think it is a valid perspective
12 and that's why I asked Tina the question of what other options are we looking at for
13 funding these things. I don't know if this is the right way or not, I honestly don't know. It
14 is great to add it on until you try to get it to actually work. Less so for the density and
15 more so for the preservation initiative. I wanted to thank you for bringing that
16 perspective to the table because the one thing I would not want to have happen is for
17 this to be looked at as the sole source of revenue to fund a program of this nature
18 because that is dependent on a lot of things that we're never going to be able to control,
19 I think, and we need a broader, we need a broader approach, I think, to look at this. So I
20 just want to thank you for putting that perspective on the table because it helps you
21 think about what are the range of options out there that should be considered.

22
23 Council President Knapp,
24 Thank you. There are no more questions. This concludes this panel. Thank you all very
25 much for your testimony. Our next panel includes Steve Orens representing Fitzgerald
26 Auto, Robbie Brewer speaking as an individual, Steve Robins speaking as an individual,
27 Phil Perrine representing White Flint Area Two property owners, and Tim Dugan
28 representing Manhattan Auto Imports. Mr. Orens is our first speaker.

29
30 Steve Orens,
31 Thank you President Knapp and members of the Council. I am Steve Orens, an
32 attorney with the Rockville Office of Miles and Stockbridge. We represent Jack
33 Fitzgerald and the Fitzgerald Auto Malls. Unlike my colleague Mr. Kline who was not
34 going to talk about his client's property, I am going to talk about my client. Mr. Fitzgerald
35 has property in both Rockville Pike and Nicholson Lane in the White Flint planning area.
36 You have heard White Flint as the linchpin of much of the testimony this afternoon and I
37 too will testify about White Flint. I'm not going to read my written testimony to you. Much
38 of what I have in there has already been stated. I'm not going to bore you by reading it
39 aloud and re-saying what everybody else has already said.

40
41 Council President Knapp,
42 Appreciate that.

43
44 Steve Orens,



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1 I do want to agree first with my friend Derick Berlage who likened the cost of the BLTs
2 to a tax because it is a tax. We support the BLT program. We believe that the
3 preservation of agricultural land is a vital public policy that is important that must be
4 funded and that must be successful. Coupling that with trying to develop an area such
5 as White Flint under the TMX Zone takes two wonderful ideas and creates a disaster
6 because neither will be accomplished when they are coupled together. White Flint has
7 not developed since the 1992 master plan and the recommendation of a 2.5 FAR TSM
8 Zone. Jack Fitzgerald, such as the property that Jody Kline described for his client, Jack
9 Fitzgerald has a very profitable, auto dealership on his property, Zoned C-2 and virtually
10 no incentive for the 2.5 FAR under the TSM Zone to redevelop that property and to take
11 the risks that are associated with that type of redevelopment and put a profitable
12 business out of business. That is not an incentive. That's not going to happen. You need
13 to have incentives in the TSM Zone and in the White Flint master plan which you'll
14 hopefully get shortly that will make people want to assemble land, will bring the land
15 together and create the type of density that you need to have an effective, let's call it
16 what it is, a town center. It's a Central business District type area that could evolve out
17 of White Flint. We need to improve transit in that area. One final comment if I may, or I'll
18 get into a lot of trouble for not having said it up front. And that is, you have, I have
19 distributed to you a definition of what we call an urban automobile sales center. One of
20 the problems that we have with the Zone before you is that it virtually drives auto
21 dealerships out of business, and a pun was intended.

22
23 Council President Knapp,
24 Okay.

25
26 Steve Orens,
27 And you need to be able to combine that.

28
29 Council President Knapp,
30 We will look at that.

31
32 Steve Orens,
33 Use with this Zone.

34
35 Council President Knapp,
36 Duly noted.

37
38 Steve Orens,
39 Thank you very much.

40
41 Council President Knapp,
42 Thank you. Mr. Brewer.

43
44 Robert Brewer, Jr.,



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1 Thank you. Good afternoon President Knapp and members of the Council. I'm Robbie
2 Brewer, an attorney with Lerch, Early and Brewer, here this afternoon on behalf of
3 several property owners we represent in Germantown that are affected by the
4 Germantown master plan and also here on behalf of White Flint Mall, owned by Lerner
5 Enterprises and the Tower Company, in the White Flint sector plan both areas are
6 affected by the TMX Zone. The reason you have so much interest in it is that it has
7 potentially broad applicability in a swath of the County including Twinbrook, White Flint,
8 and Germantown. I would echo the comments of my colleagues that no one questions
9 the laudability of the BLT acquisitions. The question really is who pays for it and why? In
10 that respect I think the summary that Jody Kline gave to you and that Derick Berlage
11 gave to you is quite accurate. It is really a question of fairness and public policy. Who
12 bears the burden? We have two primary problems with the TMX draft. One is that it
13 requires nearly all development to use the so-called optional method of development,
14 not the standard method. And secondly, it requires a disproportionately high use of
15 BLTs that, in our view, have over the top economic, adverse economic consequences.
16 On the optional method issue that has not been much addressed today yet, there is this
17 break point between standard and optional method. Unfortunately, what the draft does
18 is to diminish the applicability of buy right development down below what current
19 property owners currently have, not by a little, but by a lot and requires them to buy
20 back in the optional method process, density that they currently already have. Seems
21 pretty un-American. The second thing that the standard method does is to limit building
22 height to 28 feet, 28 feet, you're all looking at me, am I crazy? No. 28 feet. The standard
23 method has an anemic building height that needs to be, had to be rectified. We think the
24 standard method optional method break point needs a great deal of work. The BLT
25 issues briefly, they kick in at too low a level. They require too high a percentage to be
26 purchased and the calculations, the conversions, 9000 feet for residential and 7500 for
27 commercial, altogether result in a cost that's way too high. My final comment on the BLT
28 is that the methodology they use to compute price are very problematic. The one for
29 commercial do apply to class A rents and you know how difficult rents are to assess and
30 we think that needs more work. I would finally note that one of our clients, Trammel
31 Crowe, has submitted a letter that contains economic analysis. It was delivered today, it
32 was presented to the Planning Board, and Mr. Cesker is aware of it and can give you a
33 better detail for your PHED Committee worksessions. Thank you.

34
35 Council President Knapp,
36 Thank you very much. Mr. Robins.

37
38 Steve Robins,
39 Good afternoon President Knapp and members of the Council. My name is Steve
40 Robins. I'm an attorney also with the law firm of Lerch, Early, and Brewer located in
41 Bethesda. I'm here today testifying on this ZTA as an individual and also on behalf of
42 one of my clients, the JBG Companies who has many holdings on Rockville Pike
43 particularly in the White Flint sector planning area. We support the County's goals of
44 encouraging and concentrating development around transit areas and requiring the



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1 development be pursued in a manner that is responsible, environmentally sustainable,
2 and offers significant public benefits. However, we do have concerns as it relates to this
3 new TMX Zone and would respectfully request that you consider these points. First of
4 all, the purpose clause of the Zone states, and I quote, the TMX Zone fosters transit
5 oriented development by permitting increased density in height consistent with the
6 recommendations of an approved and adopted master plan. The purpose goes on to
7 state that the TMX Zone should provide incentives and flexible development standards
8 that foster innovative design and technology. We have real concerns that the TMX Zone
9 as proposed will not be able to achieve these goals. The Zone establishes, as you
10 heard, a standard method of development and an optional method of development
11 similar in nature to the Central Business District zoning that already is in place in a
12 number of CBDs. The ZTA establishes a very low threshold for application of the
13 standard method, up to a 0.5 FAR for example in the White Flint area, thereafter, all
14 development would be subject to the optional method of development. This break point
15 raises concerns in large part because most projects will trigger the optional method and
16 thus be required to purchase the BLTs for at least 12.5% of the density, or for up to
17 12.5% of the density. This is a significant deviation from the standards already in place
18 for Zones like the TSR and TSM Zones, two Zones that the TMX Zone is designed to
19 replace. As a result of this BLT requirement, property essentially will have been down
20 zoned because density that was once available without the imposition of BLTs will now
21 only be available if the property owner chooses to purchase the BLT for, as part of that
22 program. I would also like to mention that the economics of the TMX Zone as it relates
23 to the imposition of BLTs needs to be really fully evaluated. Given all of the other
24 requirements as you've heard in terms of going through the development process,
25 including MPDUs, workforce housing, impact taxes, regulatory and environmental
26 requirements, storm water management, and the like, the list goes on, this really is
27 essentially another tax. The last point I would like to make if I could.

28
29 Council President Knapp,
30 Briefly. Briefly.

31
32 Steve Robins,
33 Is just I support the recommendation in the Zoning Text Amendment as it was submitted
34 by the Planning Board and the Council as it relates to the grandfathering provision for
35 many of the reasons that Mr. Kominers brought up. Thank you.

36
37 Council President Knapp,
38 Thank you. Mr. Perrine.

39
40 Phil Perrine,
41 Mr. Knapp, thank you for allowing me to speak, and members of the Council. I'm
42 speaking today on behalf of a group of property owners in the White Flint Area II area,
43 also known as the Nicholson Lane Urban Village area. I urge you to approach this BLT
44 portion of the new Zone, the TMX Zone with all deliberate caution. We appreciate the



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1 desire to advance the agricultural preservation policy but there are some concerns with
2 marrying that policy with the creation of sustainable smart growth or at least smarter
3 growth communities that are transit oriented. We understand the value of removing that
4 last TDR so that farms do not become a super large residential lot. However, the
5 concern is whether the development of these smart growth, mixed-use, transit oriented
6 communities can bear the burden of providing that funding exclusively for the ag
7 preservation program and what the consequences are if they cannot. As Clarksburg and
8 the other outer suburbs of the County build out, this County will rely increasingly on
9 redevelopment and infill in proximity to existing and planned transit services as
10 described by the Planning Board staff's 2008 June report titled Analysis of the Supply
11 and Demand for Housing. That report also describes a housing affordability gap that is
12 projected to grow over the next 20 years. As the report indicates, higher density,
13 residential development around Metro Stations is one of the ingredients to address the
14 housing affordability gap. This type of residential development is a necessity. In addition
15 to appropriately located multifamily development, the creation of places of employment
16 in mixed-use transit service communities is critical to reducing auto dependence, to
17 increasing pedestrian and bike friendly neighborhoods, and to increasing mixed-use
18 communities where residents can live, work, play, and travel to similar areas by transit.
19 If the burden to create these communities is too great, developers will invest in
20 jurisdictions in the region that are more conducive to this kind of smart growth and
21 places like White Flint will be left with the existing pattern of mixed development, half
22 completed urban villages, and new residential and office development will migrate to the
23 fringe of the County threatening the very Agricultural Reserve that the measure is
24 intended to protect. So please review with great care the costs of the program and the
25 manner in which the costs are borne by these transit based communities that are critical
26 to the future success of the County. Thank you.

27
28 Council President Knapp,
29 Thank you very much. Mr. Dugan.

30
31 Tim Dugan,
32 Good afternoon. My name's Tim Dugan. I'm with Shulman Rogers in Rockville and I'm
33 here today for the Jaffey family and Manhattan Auto in Rockville. I'm going to restrict my
34 discussion to the issue of having auto dealerships in the TMX Zone and in the White
35 Flint area basically. That is, such an operation, such a business can be redeveloped
36 and integrated into a mixed-use project just as many other retail businesses can. My
37 testimony that I submitted indicates that the notion of having a showroom in one
38 location and having service in another location is very difficult economically and it also
39 has negative environmental, traffic circulation, and other negative attributes to it. I may
40 have used an exaggerated point but the one place where you can find a lot of
41 showrooms without any service is some place where you may have 80 million people
42 walking by or something, but the notion is, is that for operational efficiency, personnel,
43 and a lot of other reasons that make up a critical mass for an auto dealership, you have
44 service onsite with the showrooms. One of the ones that I'm most familiar with is when I



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1 drop my car off, I will wander in and look at the new cars for sale. But I gave a few
2 examples that you can see where auto dealerships have store fronts in various cities
3 where you walk by and you see beautiful new cars, et cetera, and then you don't see
4 the service and the like, some of the less attractive attributes. They are there, they are
5 just not as visible. I think in the TMX Zone with the various design principles and the like
6 that would also be part of the master plans and the like, I think they should be
7 accommodated and given the long- standing nature of some of these business, such as
8 the Jaffey's who have been there for 50 years, we should keep them in White Flint. I
9 think they are not looking for any handouts. They'll adapt. They just don't want to leave
10 because their service is out of the area. That's the thrust of my testimony. Thank you.

11
12 Council President Knapp,
13 Thank you very much. Councilmember Floreen.

14
15 Councilmember Floreen,
16 Thank you. I just want to make a comment. I don't know if this came up at the Planning
17 Board session the other day. We don't have too many farmers in the audience here but
18 they would tell you that the farming community experienced a significant down zoning,
19 when was it, Jeremy, 70 something, well, used to be '74, when it was down zoned from,
20 the Ag Reserve was down zoned from half acre lots to five acre lots and then 1981, I
21 think, it was down zoned from five acre lots to 25 acre lots. You're not alone in the issue
22 of how you rearrange density, value, all to achieve a public good. Was that a tax
23 Derick? I don't know. But it is a long tradition we have of trying to balance these
24 objectives. I'm not sure how the math works. I'll be interested in the balance sheets for
25 analysis. But it is rather ironic given what the agricultural community has faced over
26 time to see the other side of that coin. We'll see how it goes. Thank you.

27
28 Council President Knapp,
29 There are no more questions, this completes this panel. Thank you very much. [multiple
30 speakers]. Our final two speakers for the afternoon, Mr. Elmendorf representing Elcore
31 Inc. and Ms. Harris speaking as an individual.

32
33 Steve Elmendorf,
34 Thank you Mr. President. I realize that Pat and I are the last two people standing in front
35 of you and your summer break.

36
37 Council President Knapp,
38 Nobody is paying any attention to that at all.

39
40 Unidentified
41 Don't feel any pressure.

42
43 Steve Elmendorf,



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1 None at all. I'm Steve Elmendorf with the law firm of Linnowes and Blocher. We
2 represent Elcore Inc. who is developing the North Bethesda Center or the NBC at the
3 White Flint Metro Station property under a joint development agreement with WMATA.
4 My purpose in submitting this testimony is to urge the District Council, if the District
5 Council adopts this ZTA with the BLT concept to adopt the amendment that was
6 previously discussed and recommended by the Planning Board. Specifically we urge
7 the proposed ZTA be amended to allow development under a development plan
8 previously approved by the District Council for the TSM Zone, in Elcore's case, to
9 remain valid. Elcore's current NBC development provides an excellent example as to
10 why this recommendation of the Planning Board is an absolute necessity. The NBC has
11 an approved development plan under the TSM Zone for 2.7 million square feet of
12 mixed-use transient oriented development, half residential, half nonresidential, at a 2.0
13 FAR. The NBC has received complete subdivision and APFO approval. It is valid
14 through the year 2015. And the Planning Board to date as of last Thursday has
15 approved three site plans and there will be another five or six site plans and a special
16 exception for a hotel that will be coming along in over time within Elcore's validity
17 period. The APFO approval for NBC obligates Elcore to mitigate 50% of its single
18 occupancy vehicle trips under the growth policy's alternative review procedures for the
19 Metro Station development. Pursuant to that, the County, the Planning Board, and
20 Elcore executed a 55 year trip mitigation agreement to, under which Elcore has a whole
21 series of mitigation measures it needs to take, all of which are based on the trip
22 mitigation synergies that arrive from having this 2.7 million square feet of people living
23 and working and shopping at this Metro Station. Assuming the Planning Board's
24 recommended amendment was not adopted, this ZTA would down zone the Elcore
25 property from its 2.0 FAR to a 0.5 FAR and then tell Elcore to buy its way back to just to
26 a 2.0 FAR. Now, I'm not an economist. I don't play one on TV but I did a little back of the
27 envelope calculation using the data that's been presented so far about the cost of these
28 BLTs and how much they are worth in terms of development. For, just for Elcore to get
29 back to where it is today, July 29, that would be a \$6 million cost. Now, this is a situation
30 where Elcore can't take that value out of the land. Elcore already has made its deal with
31 WMATA. Without that amendment, it would be grossly unfair to place Elcore and others
32 in that same situation.

33
34 Council President Knapp,
35 Thank you very much.

36
37 Steve Elmendorf,
38 Thank you.

39
40 Council President Knapp,
41 Ms. Harris.

42
43 Patricia Harris,



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1 Thank you. Good afternoon. Patricia Harris with the law firm of Holland and Knight. I
2 share the concerns you've heard this afternoon from others in the development field
3 regarding the feasibility of any redevelopment occurring on sites rezoned in the TMX
4 Zone given the significant economic disincentives imposed by the Zone. By way of
5 example, we have a project which is proposed for 1 million square feet at a 2.25 FAR
6 which would result in a BLT tax, if you will, of 2.5 million. This is in addition to all the
7 other items, development impact tax, school impact tax, et cetera, that are also
8 imposed. Putting that issue aside, my remaining testimony is focused on just one
9 provision of the TMX Zone relating to the grandfather provision. First, we're supportive
10 of the proposal that approved development plans remain valid. We're also pleased with
11 the Planning Board's recommendation that approved preliminary plans and
12 amendments there too are grandfathered and by extension the approved site plans and
13 their amendments. Allowing for the grandfathering of an approved preliminary plan and
14 site plan and any amendments there too would allow JGB's 12 acre Twinbrook Fisher's
15 Place development to be completed as planned. The property was approved as a two
16 phase development to accommodate R&D and office uses in an area targeted for bio
17 science uses with NIH as a major tenant. Four of the six Fisher Place buildings are
18 completed and occupied. And as required by the existing site plan approval, the owner
19 is to amend the existing approved site plan to provide the design details for the second
20 phase. Adoption of the TMX Zone grandfathering provision as proposed by the Planning
21 Board allows these two buildings to be developed as contemplated and for Fisher's
22 Place to complete its development as a single comprehensive project where all of the
23 components including the density, public use space, parking, common areas, are
24 integrally related and addressed under the existing approved site plan. In addition, there
25 are also further reaching justifications to allow for the grandfathering of amendments of
26 existing site plans and preliminary plans. The inability to amend a site plan would
27 preclude minor changes to an approved plan even when all parties agree that the
28 change is favorable. Also precluded would be changes required by DPS in the course of
29 its building permit review to address certain code issues. As we all know in this current
30 post-Clarksburg environment, no changes may be made currently to a site plan without
31 an Amendment. For these reasons, we encourage your adoption of the Planning
32 Board's recommendations to allow for the grandfathering of the approved preliminary
33 plans and site plans and any amendments there too assuming that you are going to go
34 forward with the zone. Thank you.

35
36 Council President Knapp,
37 Thank you very much. Councilmember Floreen.

38
39 Councilmember Floreen,
40 Thank you. Ms. Harris' testimony raises some interesting issue about the relationship
41 between what you do at subdivision plan and what you do at site plan. Jeff, could you
42 direct some thought to that when we take it up? Thanks.

43
44 Council President Knapp,



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- 1 Okay. There are no more questions. This concludes this panel and this public hearing.
- 2 The Council stands in recess until September 9th at 9:45 a.m.
- 3